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THE AVAILABILITY OF INSURANCE IN AREAS AT RISK OF NATURAL DISASTERS

Y 4. B 22/1:103-92

The Availability of Insurance in Ar...

FIELD HEARING

BEFORE THE

SUBCOMMITTEE ON
CONSUMER CREDIT AND INSURANCE
OF THE

COMMITTEE ON BANKING, FINANCE AND
URBAN AFFAIRS
HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRD CONGRESS

FIRST SESSION

NOVEMBER 1, 1993

Printed for the use of the Committee on Banking, Finance and Urban Affairs

Serial No. 103-92



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THE AVAILABILITY OF INSURANCE IN AREAS AT RISK OF NATURAL DISASTERS

MONDAY, NOVEMBER 1, 1993

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON CONSUMER CREDIT AND INSURANCE,
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS,
Washington, DC.

The subcommittee met, pursuant to notice, at 9:30 a.m., at the Florida Institute of Technology, Melbourne, FL, the Hon. Joseph P. Kennedy [chairman of the subcommittee] presiding.

Present: Chairman Kennedy and Representative Deutsch.

Also present: Representative Bacchus of Florida.

Mr. WEAVER. Good morning. My name is Lynne Weaver and I'm the president of the Florida Institute of Technology.

It's a pleasure for Florida Tech to host this congressional hearing upon such an important topic as pertaining to the property liability insurance brought about by recent national disasters.

We extend a special welcome to the Members of the Congress and their staff and I commend Congressman Bacchus for his hard work in putting together this hearing and the work he's doing to support his congressional district. For that we appreciate that very much, Jim.

I also want to welcome those who have been on our campus before and hope that you will return again for other events that we hold here at Florida Tech.

Again, I welcome each of you and I hope that this hearing will be very productive for you.

Chairman KENNEDY. The subcommittee will please come to order.

First of all we thank Dr. Weaver for his opening and welcoming remarks. We appreciate very much Florida Tech's willingness to host this important meeting of the Consumer Credit and Insurance Subcommittee here in Florida today.

I also particularly want to thank Jim Bacchus for asking the subcommittee to come here to central Florida and to investigate many of the problems that have occurred within the insurance industry. Peter Deutsch, a new Member of Congress, also deserves tremendous credit for the work that he's done in just a few short months in the Congress in raising the issue of insurance.

I want to particularly thank Jim Bacchus for all of the fine work that he has done on the committee over the course of the last several years. I think Jim Bacchus is really one of the finest Members of Congress that I have had the pleasure to work with. He is so knowledgeable about every issue, from trade matters to the con-

cerns of residents here in central Florida. He is also very knowledgeable about our subcommittee issues that deal with the banking industry, with housing loans and with homeowners insurance.

Given the many problems the people across the State have experienced due to hurricanes and other flooding problems, both Peter Deutsch and Jim Bacchus have really been tremendous advocates for working people and for the ordinary citizens of this State. It's a great pleasure to have both of them on the committee and we're very much looking forward to their insights here this morning.

This is the second hearing that the subcommittee has held in the last 6 months on the topic of insurance availability in areas at risk of natural disasters. Today we want to examine what has changed and what still needs to be done to ensure that Floridians receive the insurance they need to build stable and secure lives for themselves and their families.

I want to thank President Weaver and all of those at Florida Institute of Technology for hosting the subcommittee and we're grateful for their hospitality.

I particularly want to thank all of the witnesses that are coming before us today for their testimony. We understand that the entire State of Florida and all of its legislature is going to be focusing on the issue of insurance this week. I've read about it in several of the newspapers already today and understand the grave concerns that people have with the huge increase in rates and also with the potential that exists for people to lose their policies.

We also want to acknowledge that many of our witnesses have traveled far to be here. I understand that Mr. Cosgrove is on his way and I'm going to ask the panelists to jump right in as the second panel, but when Mr. Cosgrove does arrive I'm going to call a temporary halt to the second panel's testimony. I will then go back to the first panel, let Mr. Cosgrove testify, and then continue with the second panel.

It's been said that the only people who can get decent insurance in this country are the people that don't need it. That has certainly been true in the area of health insurance. Many now fear that it is becoming true in the area of property and casualty insurance. 1992 was the worst year of natural disasters in our Nation's history. Hurricane Andrew, Hurricane Iniki, and the December storm that ravaged much of the east coast destroyed over \$23 billion worth of property.

These events have triggered an insurance crisis of unprecedented size and scope. Millions of Americans in Florida and other States have faithfully paid their premiums for years and even decades, and yet they now find themselves feeling abandoned and gouged by the companies that they trusted for so long. They are being dropped by the good hands people and the good neighbors are acting more like the McCoy's and the Hatfields.

Here in Florida over a half a million residents face the imminent cancellation of their homeowners insurance when the current moratorium expires on November 15, and millions more face premium increases of anywhere from 40 to 65 percent.

This same pattern of massive dislocation and sticker shock is emerging throughout the rest of the country, from New York to California, from Kansas to Massachusetts, and it's having a dev-

astating consequence on the ability of communities to maintain economic stability. This is not simply a Florida problem. It's a national problem. Finding a solution to this crisis will not be easy and will require all of us, insurers as well as consumers, and State and local as well as Federal Governments to work together.

Florida officials, particularly Governor Chiles and Commissioner Gallagher and Representative Cosgrove, have taken important steps by imposing the 6-month moratorium on cancellations and establishing a blue ribbon commission to help shape a permanent solution.

The commission has recommended several steps that should be taken if we are going to protect homeowners. First and foremost, companies should not be allowed to drop customers like hot potatoes. Any withdrawals from a State should be capped at 5 percent of policies enforced for any one year. This is the best way to avoid a panicky overreaction by insurers to a natural disaster. I'm pleased to see that this proposal will apparently be submitted by Chairman Cosgrove to the legislature's special session.

Second, States should require companies to submit business plans that explain mass cancellations. These plans should be made public and subjected to public debate. At the very least people should have a right to know why they are losing their policies en masse.

Third, insurance company claims about the need to cancel policies and raise rates should be tested against scientific and impartial standards. Too often State regulators are forced to rely on information submitted by insurers themselves in deciding whether they ought to be allowed increased premiums. That's like letting an accused wrongdoer pick his own judge and jury. States need some objective standards to test industry claims.

In this regard the Federal Government can be very helpful. Federal risk assessment and management authorities, such as the Federal Insurance Administration, the National Hurricane Center, and the National Oceanographic and Atmospheric Administration have developed sound computer models to predict the size and frequency of disasters. Several months ago I asked the National Association of Insurance Commissioners to consider locking arms with the Federal Government to give the States the tools they need. Thus far the NAIC has been unresponsive and I intend to keep pushing them.

Last, many people, including several of our witnesses today, have called on the Federal Government to establish a national disaster insurance and reinsurance program. This proposal merits careful consideration, which we all intend to give it. However, we must caution against the view that such a program is a cure-all for the country's insurance ills. If we're not careful it could become a poison pill for the taxpayer, a massive bailout of the insurance industry.

As we already know from the savings and loan crisis we do not want to create a situation where the private sector gets all the profits and the taxpayer takes all the risk. If we create a program where the industry gets the gold while the taxpayer gets the shaft, then all we'll have done is simply replace one problem with another and solved nothing.

That said, let me now turn to Congressman Bacchus for any opening statement that he may have.

Congressman Bacchus.

Mr. BACCHUS. Thank you very much, Mr. Chairman, and thank you especially for your kind words. Let me assure you that the feeling is mutual.

Those of my constituents who have taken time to come here today appreciate your presence as I do and I want them to know that Joe Kennedy is one of the brightest and hardest working Members we have in the House of Representatives and he has gone far out of his way to be here with us today.

Chairman KENNEDY. The only trouble is, Jim, I've brought Boston weather with me today.

Mr. BACCHUS. We wanted you to feel at home, Joe.

And I'm also very happy to be here with my good friend and colleague, Peter Deutsch, from Fort Lauderdale in Broward County, who also represents Monroe County and part of Dade County, in one of those sinewy new districts down there.

Peter Deutsch is new to the Congress this year but he is not in any way new to the issue of insurance reform. Congressman Deutsch has formerly served in the Florida Legislature and in the House of Representatives in Tallahassee. He served as chairman of the Insurance Committee. He's been a leader already on Chairman Kennedy's subcommittee on insurance reform issues and we look to him increasingly in the House of Representatives.

To my knowledge this is the first time a field hearing of the Congress has ever been held in Melbourne, Florida. This is not a town meeting. This is a field hearing of the Congress. This is what you would see on C-SPAN except for the fact that it's happening here and not in Washington. What I've tried to do is bring a part of the Congress here to my constituents. And Joe Kennedy, through his kindness and through his interest and passion for this issue, has made that possible and for that we're grateful.

The witnesses we'll have testifying today are not testifying solely for themselves. In many respects they are testifying on behalf of literally tens of thousands of other citizens who live here on the space coast or somewhere throughout Florida. This is an issue that is of concern to us on the space coast but also in south Florida, throughout Florida and throughout the Nation. And, we believe that our problems are urgent here and that urgent action is needed in Washington.

I appreciate, again, very much the fact that Chairman Kennedy has taken the time and gone way out of his way to be here with us and next time you come, Joe, we'll try to have a little warmer weather.

Chairman KENNEDY. Terrific.

Mr. Deutsch.

Mr. DEUTSCH. Thank you, Mr. Chairman. And, again, I also want to thank you and your staff and also Congressman Bacchus. We in Florida and south Florida like to consider Congressman Kennedy a Member of our delegation; his family has spent time in south Florida and I know he spends a great deal of personal time in south Florida.

Mr. Chairman, my district on the southern tip of Florida was hammered by Hurricane Andrew. As my constituents have been picking up the pieces and rebuilding their communities they have faced another problem; lack of insurance coverage. As a result of Andrew, the largest natural disaster in our Nation's history, many insurers have had little choice but to attempt to withdraw from the Florida market or to limit the percentage of their business in Florida.

Tom Gallagher, Florida's insurance commissioner, estimates that the insurance claims paid from Andrew exceed the combined total of homeowner premiums paid throughout Florida during the past 23 years. The magnitude of those losses caused eight small Florida insurers to go under. At least 34 others no longer intend to do business in the State. And 39 additional companies plan to limit the number of policies they write in high-risk coastal areas. Once the moratorium prohibiting nonrenewals of insurance policies expires 2 weeks from today, upward of 1 million homeowners covering about one-fifth of Florida insured homes, many of which are in my district, may be faced with losing their insurance coverage.

This is an intolerable situation for my constituents who are struggling to rebuild following Andrew. We need to act today to address the insurance availability crisis so that the property owners in Florida and elsewhere in the country can still receive adequate protection. The only long-term solution to this problem is pending before this subcommittee, the National Disaster Protection Act of 1993, H.R. 2873. I cosponsored this legislation because it addresses the underlying cause of insurance availability problems—by the lack of reinsurance—by creating a Federal reinsurance program. The lack of reinsurance in the private sector has left insurers with no options other than to limit their exposure and pull out of the market. States like Florida don't have the resources to provide adequate reinsurance protection. The only source is a Federal program in which insurers can purchase excess reinsurance to protect insurers from catastrophic losses thereby allowing the companies to continue to underwrite properties in coastal and other high-risk areas.

The solution to the insurance availability crisis is before this very subcommittee in the form of H.R. 2873. I urge you, Mr. Chairman, to carefully review the legislation and to move to mark up early in the next year.

Thank you very much.

Chairman KENNEDY. Thank you very much. Again, I want to just say how pleased I am to have two such fine Members of the Florida delegation on our committee. Peter Deutsch's knowledge of the insurance industry is probably second to none on the committee. He has offered several amendments to important legislation that has already been passed through the Congress. His knowledge has been something that many of us on the subcommittee have been able to draw from and we appreciate very much his willingness to work with us and educate us as to many of the problems that are being faced here in south Florida.

And, as I mentioned I don't think there's any finer member on the Banking Committee and I might say in the Congress in general than Jim Bacchus. He has tremendous respect throughout the entire Congress. With his background in trade and with all the finan-

cial and job issues that our country faces at the moment, Jim Bacchus is really one of the most thoughtful and, I think, effective Members of Congress. I really am delighted to be here with both of them.

There being no further opening statements, I'd now like to ask our first witness who I think is going to be Sharon Cisewski?

Ms. CISEWSKI. Cisewski.

Chairman KENNEDY. Cisewski. I'm sorry. Sharon is the president of the Space Coast Condominium Association. The association represents over 13,000 condominium owners on the space coast and we want to thank you very much for being with us this morning.

We would ask all of our witnesses to try to keep your oral comments to about 5 minutes so that we can make certain to provide the Members of Congress an opportunity to ask questions. If we could hold your oral comments to 5 minutes we will make certain to submit all of your statements in full for the record. So, rest assured your words will be taken down but please try to keep your oral remarks short so we can get to some questions.

Sharon, please proceed.

STATEMENT OF SHARON CISEWSKI, PRESIDENT, SPACE COAST CONDOMINIUM ASSOCIATION, INC.

Ms. CISEWSKI. Yes. Mr. Chairman and the members of the subcommittee. The Space Coast Condominiums, for the enlightenment of those that don't know of our organization—

Chairman KENNEDY. Could you just pull that microphone a little closer?

Ms. CISEWSKI. Yes.

Chairman KENNEDY. Probably a lot closer.

Ms. CISEWSKI. OK?

Chairman KENNEDY. Yank it right over. There you go.

Ms. CISEWSKI. Is that better?

Chairman KENNEDY. A little bit. Just pull it right close.

Mr. DEUTSCH. Just pull it right up there, Sharon.

Ms. CISEWSKI. OK. All right. Space Coast Condominiums is the only organization in Brevard County and I believe in central Florida that fosters and promotes the interests of the residential condominium unit owner associations and I thank you for this opportunity to speak on their behalf.

When asked what impact did Hurricane Andrew have on your association's insurance coverage their responses included master policies were canceled or not renewed, the premiums were increased 65 to 200 percent and the deductibles by as much as 500 percent, future ordinance and law coverage will be denied, wind and hail buy-back policies are nonrenewable. They were refused coverage because of waterfront properties and they were notified that new unit owners will not be eligible for homeowners insurance if the units are within 500 to 1,000 feet of the water.

These are examples of why many of our members may consider entering the joint underwriting association which they affectionately refer to as the "high risk pool." One response provided our insight into this pool. It reported that the windstorm premium increased 100 percent and their coverage was changed from replacement value to depreciated value. This only adds to the concern

about this pool being a viable insurance provider. We need more information regarding the premium rates, the coverage limitations, the number of the insurees allowed, the ability to continue if another Andrew strikes, and the possibility that once in the pool you will never get out. And, it could be a reality because insurers are not going to seek out policyholders that are already considered a high risk.

We are also concerned about the insurers that either stayed in or entered Florida's market after the moratorium. Will they be stable enough to withstand another Andrew or will they pull out like their predecessors. Will a moratorium again be necessary to stem the tide. When the present moratorium is lifted on November 15 we believe the current conditions will remain status quo until after the Federal and State legislators complete their special hearings and sessions on resolving insurance problems, whereas the condominiums will be dealing with the problems of how to pay these higher, perhaps dire insurance premiums and replacing their canceled coverages.

The condominium living is an attractive lifestyle and the condominiums and the unit owners play a major part in their community, in the county, and in the State. And, they deserve more attention and I will use the following as an example to illustrate why they should. In Brevard County we have approximately 850 residential condominiums containing approximately 21,000 units with an estimated market value of \$1.4 billion. Its economy could be ruined if these properties are not insurable because perspective buyers will go elsewhere to live and developers will not go forward with planned projects.

Mr. Chairman, the members of our organization believe that the condominiums were the forgotten victims of Hurricane Andrew. I thank you and your subcommittee for dispelling that belief today. Thank you.

[The prepared statement of Ms. Cisewski can be found in the appendix.]

Chairman KENNEDY. Thank you very much, Ms. Cisewski, we appreciate your testimony and we'll have some questions for you when the rest of the panelists have finished.

Louis Schlitt is our next witness. Mr. Schlitt is the president of the Schlitt Insurance Services. Mr. Schlitt has over 30 years experience in the insurance industry and is a past president of the Independent Insurance Agents of Indian River. Thank you very much for being here with us, Mr. Schlitt; please proceed for 5 minutes.

STATEMENT OF LOUIS SCHLITT, PRESIDENT, SCHLITT INSURANCE SERVICES

Mr. SCHLITT. Thank you, Chairman Kennedy.

Chairman KENNEDY. If you could pull that microphone right close it would be great.

Mr. SCHLITT. All right.

Chairman KENNEDY. Thank you.

Mr. SCHLITT. Is that better?

Chairman KENNEDY. Yes, thanks.

Mr. SCHLITT. Good.

My remarks will address the pre-Andrew and post-Andrew situation. The pre-Andrew situation was one where we had a very competitive environment. We wrote personal lines, commercial lines, and did business with strong reliable companies. We represented approximately seven groups of insurance companies insuring property and casualty and five companies providing coverage for mobile homes. We had at least three companies that would insure properties along the ocean front and had no problems insuring any of the maintained classes of construction within our market area. The properties along the ocean were the most difficult to place, yet we were able to place those coverages because there was an environment where companies would write themselves out of the wind-storm pool assessment being made by the State of Florida. Being encouraged to write these selective risks we had our companies aggressively use that facility to write themselves out of the assessments for hopefully profitable risks.

Most business in Florida is writing well below the premiums that we charged back in 1957 when I first entered this business well down to the 70 percent level. I've seen base rates go down by 50 percent and these base rates being discounted another 50 percent for more preferred packages, particularly in the commercial area. The disregard for adequate rates, in my mind, is a major factor for the problems in the industry. Large national exclusive and thrift-writing companies wrote much of the business at competitive rates because it was profitable. They wrote this substantially below the companies who had been in the market for many years and were not utilizing actuarial projections to include the catastrophic losses over the long period. I'll call that phase the fat, dumb, happy.

The post-Andrew situation. Since Andrew our agency has had two companies and that's out of the total—I had seven but I saw in the paper today there was eight to go into bankruptcy, which caused us to immediately have to rewrite all of those policies. This was followed by five of our companies withdrawing from Florida and we began to replace business with those remaining companies still writing coverage. This started in about January 1993 for the biggest part. And by the time the Florida Residential Property and Joint Underwriting Association, we'll call that the FRPCJUA, has been created by the State of Florida many of those companies had restricted coverage further, thus being the FRPCJUA became a major player for us.

On June 24 one of the major companies, due to financial reasons, withdrew from the marketplace and canceled all of its policies. We had to rewrite them within 60 days along with our normal writing and replacing of additional business that exceeded our normal levels by three times. This created a stress level in our office and workloads that were almost impossible to accomplish. There were some risks that we could not get covered in time while waiting for clients to sign applications and return them fast enough in order to insure them through the FRPCJUA. So, in some cases they went without coverage for brief periods of time.

Today we represent only three companies who are on file to write residential property. But only one will accept more than three policies per month and yet another has stopped writing completely. We use the FRPCJUA to rewrite almost 80 percent of our policies now.

There are no companies willing to write on the Barrier Island or waterfront properties. As a result, we continually have found that the FRPCJUA to be a very helpful measure. However, not all of the coverages are available with the FRPCJUA, especially jewelry coverage and specialty needs.

The insurance commissioner, Tom Gallagher's, requirement that insurance companies continue policies took the pressure off us on having to rewrite these approximately 300 policies per month. And certainly, that was even just two times of our normal written business. But this brought back a bit of sanity in our office in view of the fact that we have had now a few months of reprieve.

One of our major carriers has made a decision to dissolve its company. And we are having to replace all of the insurance policies including auto insurance. Now, generally, there is not a problem in finding continuous market for auto insurance except many of the senior citizens, especially those over 72, generally have to pay more. The commercial rates are a problem now and many markets have stopped writing this business particularly on the less superior construction and have no longer provided for any discounts. We now use excess rate markets for commercial property more than ever before. To give you an idea we received a quote on a condominium risk last year priced at \$25,000, and our best "so far" was \$75,000. However, we're working with one of our competitors and we're hopeful to writing this risk somewhere in the neighborhood of \$40,000 and even at this price I'm sure you're going to receive some complaints from the consumers.

In addition, some of the companies who have continued to open markets also reduced our commissions substantially if we elected to keep the coverage with them. In order to provide continuous coverage for our clients we elected to continue that coverage even though it was at a lesser commission. In addition, we had to hire additional employees to handle this extra workload.

The other aspect of our problem is income. The commission from the FRPCJUA is 50 percent less and yet it costs more to process than it does have for the efficiency of our other company programs and there's no automatic grading facility that enables us to efficiently handle it. This creates a financial stress on the independent agency system and is extremely frustrating to build the morale of an organization where employees are working two to three times as hard for less money. Fortunately for us, we have offset this loss with additional income from financial services. However, I'm sure there are a number of independent agents who have been forced out of the business because of inadequate compensation and extra workload involving lost business. The south Florida market is almost nonexistent. We have no markets to write business south of the Martin County and I fear that most agents in the south of Florida are not able to write any business other than that in the FRPCJUA.

In addition, some of our customers have been confused by the fact that we've canceled, reinstated, and replaced them at higher rates. When the FRPCJUA came out it took almost 4 months for policies to be issued and there's no question that consumers felt like victims unable to get satisfaction since they were not able to issue a policy. The good news is that we're now getting policies is-

sued and I'm sure the complaints will diminish; however, what we'll happen in January? I have approximately 100 policies which have to be continued next January and my concerns are this; that we need to come up with a catastrophe reinsurance program, one that will be able to provide not a guarantee of profits for the company but one of guaranteed solvency. And, I believe, that certainly this can be done for somewhere in the neighborhood of 10 to 15 percent of the premiums.

[The prepared statement of Mr. Schlitt can be found in the appendix.]

Chairman KENNEDY. We appreciate very much your comments, Mr. Schlitt. Again, I'll have some questions for you. I know it's hard to summarize your statements into just 5 minutes but, believe me, it enables the Congressmen to get a much greater sense of where you're really at if we have a chance to ask you some questions. If everybody takes 20 minutes to read their statements, no questions are asked.

So, right now, as we said at the beginning of the hearing, Representative Cosgrove will join us. If everybody can just kind of squeeze in. It kind of reminds me a little bit of dinner at my house, you know.

Representative, thank you so much for joining with us this morning. We're lucky to have the chairman of the Florida House of Representatives Committee on Insurance. In that capacity he has been at the forefront of addressing this issue with the State legislature. Recognizing his dedication to and concern about this issue, Governor Chiles appointed Representative Cosgrove to cochair the Study Commission on Insurance and Reinsurance. We look forward very much to hearing your testimony this morning. We do very much appreciate you joining with us.

I read a great deal of the reports in the newspapers of your work, Mr. Chairman, and this issue does not just concern Florida but concerns our Federal Government. Many of the standards that you're setting now, here in Florida, will have a great deal of impact on whatever Federal legislation that we end up considering. So, we are very much looking forward to your testimony and appreciate your traveling so far to be with us this morning.

Please proceed.

STATEMENT OF HON. JOHN F. COSGROVE, REPRESENTATIVE, FLORIDA HOUSE OF REPRESENTATIVES

Mr. COSGROVE. Thank you, Mr. Chairman and Congressman Bacchus and Congressman Deutsch. We're very pleased to participate today and we appreciate in Florida, Mr. Chairman, your leadership on the national level in bringing this issue to the attention of the people of America and trying to address in a responsive manner this significant problem.

Chairman KENNEDY. Excuse me, Mr. Chairman.

If you wouldn't mind, I think both Jim Bacchus and Peter Deutsch had a couple of comments that they wanted to make.

Mr. COSGROVE. I don't know if I want to hear them though.

Chairman KENNEDY. Well, I—

Mr. BACCHUS. Sure you do, John.

Mr. COSGROVE. They're both friends of mine but I'm not sure.

Mr. BACCHUS. Thank you, Mr. Chairman. I just wanted to echo what you said about the hard work that Chairman Cosgrove has done for the entire State of Florida. Some years ago I lived in Dade County, in Miami, before I moved back home to central Florida and John Cosgrove was one of my Representatives. He did an excellent job for me. He has continued to do an excellent job—

Chairman KENNEDY. How many do you get here in Florida?

Mr. BACCHUS. We get hundreds but some of them are better than others, Joe, and John is one of the better Representatives that we have. And, I'm awfully glad as a citizen of Florida that he's in the position he is as we begin this special session in Tallahassee.

Mr. COSGROVE. Thank you.

Chairman KENNEDY. Thank you.

Mr. DEUTSCH. Thank you, Mr. Chairman.

John and I have known each other for more than 10 years and I consider him one of my closest friends. And it's a real pleasure to see him in the position that he is in now. He had the good fortune of serving as my vice chairman when I was chairman of the Insurance Committee in the legislature, so I can either take the credit or the blame for everything he knows or doesn't know. It's also the revenge of the chairman that my former aide is now his vice chairman. And John has the wisdom to live in my district but the misfortune to have sustained personal damage in Hurricane Andrew. As he and I both recall, I was at his house less than a week before the hurricane. While talking about my campaign, he showed me through his house, and some of his prized personal possessions. He had an eagle collection, which is something that can't be replaced by insurance proceeds. I actually could not reach John for several days after the hurricane. His home sustained complete loss, and as has been reported in the press, he has personally had several insurance companies cancel his policy. So, not only has he been a leader on the policy side but I think he can really bring a great deal of personal attention. And, I especially appreciate you being here because I know you're going up to Tallahassee to do some things that are going to help people throughout the State.

Mr. COSGROVE. Mr. Chairman, I don't know if I can say anything after those nice words. I probably should just say thank you and leave. But, I do want to say, however, that I'm also here representing the Governor. You had invited Governor Chiles to address this panel. As you know we are starting a legislative special session in a few hours. The Governor asked me to personally extend his greetings to you and his regret that he could not be here. However, the presentation that I will be making has his full support.

Three hours from now the Florida Legislature will convene in Tallahassee for a 5-day special session. Florida's property insurance crisis is one of the special session issues. In fact, later this afternoon I will be chairing the meeting of the Insurance Committee, at which we will consider far-reaching legislation intended to prevent the private sector property insurance industry from abandoning Florida. Why am I here when I will be chairing a committee meeting of possibly national historical importance in a few hours? I am here because I want to give you a legislator's perspective on the crisis. Because I want to give you a preview of the strong legislation that is about to be considered here in Florida. And, because

I want to convince you of the importance of a Federal solution before other States have to go through the same crisis.

Early on an August morning 15 months ago the face of Florida was changed forever. The savage winds and raw power of Hurricane Andrew cut a path of destruction through the communities of Kendall, Perrine, Cutler Ridge, Goulds, down through Homestead, Florida City, and Key Largo, all of my legislative district. A new chapter was added to our history in a few short hours as we survived an event that would shape our lives for years to come. South Florida suffered the damage but all of Florida felt the pain.

I, personally, lost my home in the devastation of Hurricane Andrew. Colleen, my 8-year-old, is still scared when rain comes against her window or she hears thunder. It's been over a year since Hurricane Andrew ravaged our area and changed our lives forever. Our children will never be the same. We were in a closet as our home was being ripped apart. My wife's back was against a bulging wall and her feet were up against the other wall as the whole house was being ripped apart. The house was exploding. Colleen had passed out by this time. Tiffany, my 10-year-old, was in shock. It was horrifying. I know what it feels to think that you're going to die. I prayed my family would be spared.

I've heard many descriptions of Hurricane Andrew from different people. None made more of an impression on me than that by Army Chief of Staff, Gen. James Sullivan. He said, this destruction is far worse than anything I've ever seen in Korea, Beirut, Vietnam, and Desert Storm combined. It would take 6 months of 24-hour-a-day bombing for the same amount of total destruction that passed through this area in 3 hours.

In the days that followed, I walked through those storm-ravaged neighborhoods and talked with people whose homes were left in shambles. Through the medium of television the Nation shared their staggering sense of loss. South Florida was in shock. Never before had a natural disaster brought so much damage and devastation to any part of America.

When the winds and rains died down, more than 28,000 homes had been completely destroyed and another 100,000 homes had suffered severe damage. In all, 175,000 Floridians were homeless, including me. We slept on Army cots that we had gotten from the 10th Mountain Division, my wife and I. My two daughters slept on the floor; 82,000 businesses were either leveled or in need of repairs. Hospitals and schools were closed or only open as emergency shelters. All of these homes, schools, places of work and worship were suddenly gone. For so many people whose lives were shattered, shock and disbelief turned to anger, frustration, and blame. But the faith of the people helped them realize that blame was not going to rebuild anything. We accepted what happened. We committed to get past this trauma and to do more than just survive it. The people who lost the most said this was not the end, that it was just a new beginning.

In the days and weeks that followed the Hurricane we witnessed a most remarkable triumph of human spirit. In the aftermath of the Hurricane courageous acts were the order of the day. Countless people reached outside their own problems to help others. Through all the sadness we saw people being helped regardless of race, reli-

gion, or station in life. Rows of houses had become neighborhoods. Strangers became friends. There would only be one home with a phone in several blocks but all who were in need were welcome there. Crowds became communities. Rev. Jesse Jackson said, the Hurricane was the great equalizer. Rich and poor both were devastated.

Florida's businesses rallied to the cause raising millions of dollars. Hundreds of health care workers and law enforcement officers volunteered to serve in the relief effort. Our own National Guard performed with great distinction.

It's easy for all of us as concerned public servants to be moved by the stories of individual pain and courage in the aftermath of a catastrophe. This hurricane brought permanent changes to the lives of thousands of families but it also permanently changed the way we insure our homes and our businesses. Florida had enjoyed almost 30 years without the experience of a major hurricane. After insurance companies had paid out over \$15 billion in claims from the hurricane they knew some mistakes had been made along the way. It was a mistake when insurance companies aggressively tried to increase their market shares in high-value coastal areas. It was a mistake when insurance companies assumed that the rigorous south Florida building code was being rigorously enforced. It was a mistake when insurance companies assumed that the costs of rebuilding and recovery after a devastating hurricane would be the same as those costs in normal conditions. It was a mistake when insurance companies assumed there would always be enough reinsurance capacity to protect those companies no matter how great the hurricane exposure.

Now, there's plenty of blame to go around. Legislators and regulators could have been more vigilant about protecting homeowner policies that provide coverage that consumers need and about assuring that companies had the financial stability to keep all their promises. But in the middle of a crisis we don't have time to assign blame.

It took a while for the insurance companies to count their losses but by early 1993 they were scared. They realized that Hurricane Andrew wasn't the Big One. Computer models project \$53 billion in insured losses. Andrew times three if a category five were to hit Miami or Fort Lauderdale. When you consider that this amount, \$53 billion, is about one-third of the combined net worth of all the property and casualty insurance companies in America, when you consider that Florida is not the only State likely to get hit by multibillion dollar hurricanes, and when you consider that hurricanes are not the only natural disaster with the potential for \$50 billion or more in insured losses you can understand why insurance companies are so concerned.

Changes in the reinsurance market also worry insurance companies. Historically, there was always enough reinsurance money around that insurance companies were not worried. Today worldwide reinsurance capacity has contracted to the point that no insurance company could obtain, at any price, more than about \$250 million in catastrophe reinsurance. This is a small comfort to companies that lost several billion dollars in Hurricane Andrew. The costs of natural disasters have grown enormously in recent years.

And 1992 was a record year with \$23 billion in losses from natural disasters in America. Even so, without Hurricane Andrew 1992 would have been a record year, edging out 1989, the year of Hurricane Hugo. The combined net worth of the entire worldwide reinsurance industry is about \$25 billion. Obviously, in the context of a year with \$23 billion in insured losses in the United States alone or in the context of one storm that could cost over \$50 billion a \$25 billion worldwide reinsurance industry does not have enough capacity to provide the catastrophic loss protection insurance companies expect.

The reinsurance market is improving. Lloyd's does seem to be recovering. Millions of dollars of additional capacity have been created in Bermuda. But there still is a need to create more capacity, a need that the private sector cannot handle on its own. Without new ways of allowing insurance companies to manage their catastrophic exposures, companies face a frightening choice. They can reduce their solvency or they can drop their policyholders. Either choice creates responsibilities for government.

As a result of Hurricane Andrew eight small companies went insolvent. Although these were small companies their losses overwhelmed the Florida Insurance Guarantee Association. Ultimately, the legislature met in special session to authorize approximately \$500 million in revenue bonds to cover the claims of these eight insurers. These were small insurers. Other insurance companies, which were subsidiaries of some of the country's largest insurers, were also rendered insolvent by the Hurricane. But, they were bailed out by massive capital infusions from their parent companies.

If Andrew caused a half billion dollars of insolvencies, can anyone doubt that the Big One would cause billions of dollars of insolvency?

Insurance companies believe that Florida must do something to reduce their exposure to hurricane losses or they will do it themselves by dropping policyholders in the most hurricane prone areas. We were faced last spring and will be faced this week with the threat of cancellation of 844,000 policies. And, Mr. Chairman, I always point out to people that that is policies, not people. Three to a household, 2,500,000 Floridians on the line. A population, ladies and gentlemen, larger than 17 States in America.

Although we were never completely confident about that number the threat was sufficient for us to have to act and we enacted a 6-month moratorium. The moratorium expires in 2 weeks. We know what we cannot do. We cannot, as a State, take on the unlimited liability of insurance companies. We cannot, as a State, permanently force insurance companies to write business against their will. We cannot, as a State, force insurance companies to choose between leaving the State and risking insolvency. There is one more thing that we cannot do. We cannot create alternatives to the voluntary insurance market that add to the pressures on companies to leave the State.

Last December we created a Residential Property and Casualty Joint Underwriting Association. As with other JUA's insurance companies are responsible for deficits. The Underwriting Association already insures over 200,000 properties and is adding new

policies at the rate of 1,000 a day. If the JUA grows further, possibly becoming the largest insurer in the State, if it were to run a deficit, as it almost certainly would even after a minor hurricane, insurance companies left in this State would be assessed to provide the funds to cover the deficit. With the potential for a multibillion dollar deficit the JUA created, as a response to a shrinking private market for insurance could greatly increase the pressure on companies to leave the State. That, in turn, would lead to a bigger JUA with bigger assessment for the remaining companies, which in turn would further increase the pressure on companies to leave. This is a spiral that we must avoid.

In this new world of limited options we think we may have found a way out. This afternoon the Florida House Insurance Committee will take up a package of legislation, which I have provided for you, that will, I hope, create the environment in Florida that will allow insurance companies to profitably write the property insurance coverage that we, as individuals and businesses, need and that is essential to our State's economy. Our legislation is also meant to make sure that companies provide the type of coverage that people need and to make sure the companies can keep their promises.

The key to our plan is the creation of the Florida Hurricane Catastrophe Fund, a State agency that would provide reinsurance to all insurers for a portion of their hurricane losses. The fund would take in from each insurer an actuarially-determined premium, the reimbursement to be provided, and, would be bound by contract to provide the promised level of reimbursement but no more than what the fund has or what it could borrow. A taxpayer funded bailout of the insurance industry was never a possibility. There have been other catastrophe fund proposals, various plans that were unacceptable or that provided only illusory relief or suggested that legislature and the Governor's Study Commission on Property Insurance and Reinsurance on which I served as cochairman and which Pat Taylor, to my right, was a very able and capable member of that commission. After almost a year of debate and discussion we finally have a plan that according to leading insurance companies will have a substantial dramatic and material effect on their plans to drop policyholders.

Our package provides some needed reforms in the JUA, corrects many consumer problems with property insurance coverage that came to light after Andrew, and provides additional safeguards to protect insurance company solvency. If the House Insurance Package is passed this week it will show one way to provide real relief to insurers and real protection to consumers without raising taxes. Florida is a large enough State that we can have some confidence that this plan will work as a single State fund.

But I ask you to think about how much better it would be if we had a Federal National Disaster Insurance Fund. It's a basic principle of insurance that you spread your risk more broadly you increase your ability to remain solvent while meeting all of your obligations. A plan that provided partial reimbursement for losses from natural disasters wherever in the Nation they occur would certainly be more reliable than a single State plan. And, such a plan would mean that no other State would ever have to go through the

property insurance crisis that we've been living with in Florida for more than a year.

I'm not here to speak in favor of a particular Federal catastrophe fund plan. I know all too well from the year's work toward a Florida catastrophe fund that preparing the legislation requires attention to countless details. Any time you try to correct imperfections in a free market you must be exceptionally careful. But I am convinced that the best solution for Florida and for America is some form of Federal catastrophe fund. I can assure you, legislator to legislator, that crafting the right plan will be one of the most difficult tasks of your legislative careers. And, I can assure you as a legislator and as a citizen who has the personal experience in this situation that creating the right Federal catastrophe fund plan is worth all the effort that it will take.

Thank you, Mr. Chairman. I'd be happy to answer any questions.

[The prepared statement of Mr. Cosgrove can be found in the appendix.]

Chairman KENNEDY. Thank you very much, Mr. Cosgrove. Well, for a guy who just sounded like he's going to create a new government program to get a round of applause from the folks in the audience is a pretty good step forward.

Mr. COSGROVE. Well, I usually tell people that I'm the chairman of the Insurance Committee and I'm here to help you.

Chairman KENNEDY. I do have a couple of questions about how this fund would operate. One of the problems it seems to me as you indicate in your own testimony is that with about 200,000 properties going into the JUA and with 1,000 a day being added, as I understood your testimony you were basically indicating that if a storm hit that there's no way that the JUA, in and of itself, could protect either the homeowners or the fund itself. Is that true?

Mr. COSGROVE. Well, the nature of the JUA is that insurance companies remain responsible for any deficit and what the JUA would have available to pay claims. Right now the JUA has about \$65 million in surplus. Certainly, with 200,000 policyholders in the JUA that would not be enough to pay claims. So, therefore, all the insurance companies remaining in the State who do business would be subject to an assessment on a market share basis.

Chairman KENNEDY. OK. So, it seems to me what you're trying to then accomplish is the creation of an assessment on all of the policies in the State, is that correct, to create the disaster fund?

Mr. COSGROVE. Well, actually it's not an assessment. The concept is this, that if we create a State catastrophe fund and have insurance companies use a portion of their catastrophic load, what they figure that they need in their premium base, fire, theft, whatever, but for catastrophe. Take a portion of that, actuarially determine what it would be to purchase a certain amount of, in effect, reinsurance from this State fund. Then transfer that money into the State fund. So, it should be a net nothing. Where the gain will be frankly is that by virtue of it being a State agency it will be free from Federal income tax at 34 percent, which then will create 34 percent more capacity, which then will allow companies to write more business, which then will avoid the cancellations. And that's the gist of it.

Chairman KENNEDY. I think I get the benefits if the theory works. I'm trying to get at the difference between the \$65 million that currently insures the 200,000 customers of the JUA, and the notion that we're not just shifting the burden from private companies to the taxpayer. You know, what you're looking at here is a fellow that walked into the Congress in the mid-1980's, got assigned to the Banking Committee and for the next 5 years ended up voting for half a trillion dollars to Savings and Loans—because the taxpayer essentially was backing up the way the Savings and Loans were doing business. And so I think on the Banking Committee and in the Congress there is a grave amount of skepticism toward having the taxpayer pick up an insurance fund that private industry is shying away from. I'm trying to crystalize a little bit more clearly why this risk is acceptable to taxpayers but not acceptable to private companies.

Mr. COSGROVE. OK. I understand. First of all, let me say that the JUA is different from the catastrophe fund. The JUA in Florida is an insurance company. It has a certificate of authority and must follow all the other laws of any insurance company in the State. The JUA deficit that could be created by claims being made by any of those 200,000 people beyond the \$65 million that are held in surplus and that surplus is growing as more premiums are paid. But if there are claims made beyond that then all the companies are assessed. Now the JUA as an insurance company will also be participating in this catastrophe fund.

Chairman KENNEDY. I understand and I wasn't trying to confuse the two. I was just using the JUA as an example—

Mr. COSGROVE. Right, uh-huh.

Chairman KENNEDY. Of how it seems to me the taxpayer is then at risk.

Mr. COSGROVE. And, let me say, Mr. Chairman, I totally agree with you that neither the State of Florida nor the Federal Government should be a bailout for the insurance businesses of America. But is it a responsible public policy to have a safety net where additional sums of money can be held reserved—

Chairman KENNEDY. I guess the bottom line though, Mr. Chairman, is simply whether or not the assessments that will be charged for the purposes of the backstop that the catastrophe fund is designed to achieve will be small enough that the homeowners can afford to pay them. And, whether the fund will be large enough to provide protection to the reinsurance industry that is not—

Mr. COSGROVE. What is—

Chairman KENNEDY. Essentially, just the government giving a wink and a nod to a huge liability that then is going to be dumped onto the taxpayer when a storm actually hits.

Mr. COSGROVE. I understand. I fully appreciate the responsibilities that you and your colleagues, my friends Congressman Bachus and Congressman Deutsch, have and understanding also that with what the experience has been in the Federal Government on the S&L crisis and the bailout there, with the experience that you are going to have I might say on the Federal Flood Insurance Program—

Chairman KENNEDY. Absolutely.

Mr. COSGROVE. Is also in a deficit.

Chairman KENNEDY. Absolutely, yes, sir.

Mr. COSGROVE. With the experience you have of Americans saying, cut the deficit in America. To assume any other potential liability that might increase the deficit because you'd have to pay and with the problems that you are going to be facing in Health Care Insurance and how you're going to pay for that, I'm very sensitive to the responsibilities that you have. However, what this amounts to is if an insurance company collects \$1 from a consumer the insurance company can, one, hold it as surplus and if it does it may have to pay Federal income tax on it of 34 percent. It can pay it as dividends to its owners or some other whatever way corporately it would handle that. It can use that dollar for reinsurance, which has gone up four and five times the cost before Hurricane Andrew and now has a limit of \$250 million where they could get \$500 million perhaps before. And, that now has deductibles of 10 times perhaps what the amount was in the deductible before.

Or they can take that dollar and put it into a tax free account that is held solely for the purpose of paying claims. And, if that capital can be accumulated both in the State plan that we are proposing or more responsibly and more for the benefit of America in a Federal account, a security system, you know, to pay claims only to protect homeowners, then the homeowners' rates aren't going to go up. They actually will either stabilize or go down because that dollar will have 34 percent more capacity being held in a tax free account.

The problem that you're going to have, honestly and frankly, is how much of a net revenue loss would any of these plans be to the Federal Government for your general revenue to pay for all of the other obligations of the government. That is really what the difference would be. And if you shift, you know, if you—my suggestion would be to consider a base. I mean, if insurance companies of America are paying X in corporate income tax to the Federal Treasury then use that as a base. And whatever they save or have above that base rather than going into either additional profits or additional strip shopping centers or anywhere else, let them hold that in this account. Don't force them to have to spend it or invest it somewhere else that's not going to be liquid and be held to protect Americans. And that's the concept that I think you ought to be looking at.

I understand as a lawmaker myself I don't think it would be responsible to go, you know, setting up this account for insurance companies and losing the revenue to the Federal Government. Therefore, I would propose that you consider saying, this is the base. Whatever it is you're going to pay the obligations to the Federal Treasury so that we have the money to operate this country but above that base we will let you reserve in a responsible manner only to pay homeowner insurance claims in a catastrophe that may affect America. I would suggest that you would probably get a substantial sum of money held in trust to pay the claims and the homeowners will actually save money, because if the insurance company say, well, now I don't need to pay five times the amount for reinsurance because I've got one layer of protection there. Now, I'll buy reinsurance above what that fund will pay. I'll buy reinsurance as our plan does. We—I just came up with this method of say-

ing I don't want to even pay 100 percent. This plan in Florida will reimburse insurance companies 75 percent. So now they've got to buy reinsurance for the other 25 percent.

It's in layers that you're dealing with and the way that you will bring prices down and protect consumers is to have that safety net in the middle. Reinsurance companies then will be able to have more money in the market available to insurance companies to have expanded capacity and to protect consumers. We don't want to put people in the JUA because that is more expensive and the coverage is not as good.

Chairman KENNEDY. I can certainly see the benefits of the fund once it's created. And I think you've done a great job articulating that. I'd now like to turn it over to Jim Bacchus.

Thank you very much again, Mr. Cosgrove.

Mr. COSGROVE. Thank you, Mr. Chairman.

Mr. BACCHUS. Thank you, Mr. Chairman. And, let me begin if I may by thanking Mr. Cosgrove for his graphic recollection of his personal experiences during Hurricane Andrew.

John, in central Florida we all know that that could very easily have been us. I remember being at the Disaster Preparedness Center in Rockledge, which is just a few miles up the road from here, at four in the morning a few hours before the Hurricane came ashore in Florida. And we all recall here that at that time we thought it might hit here instead of south Florida. Next time it could. And I'm very proud of the way that Florida responded and the way my constituents responded in trying to help the people of south Florida. We are one State and one people.

I'd like to thank you also again for your leadership on this issue. I held a series of about half a dozen town meetings in August and September on this very issue. We had at one point 500 or 600 people in this auditorium. And there were hundreds more who attended other town meetings on this very issue. And I can assure you that this is one issue in which the people that I'm privileged to represent want to see the government take some action and maybe create a program. And I like what I'm hearing as a citizen of Florida. I think the legislature is about to take some very positive action. But I agree with you that we need to do more at the Federal level. I've concluded on the basis of my town meetings and my study of this issue that you're right, that we need to focus on Federal action as well as State action. And that, especially, we need to do something about the reinsurance issue.

Mr. Deutsch and I are both cosponsors of H.R. 2873 which is the Natural Disaster Protection Act introduced by Mr. Mineta of California in the House and others, Mr. Inouye, Mr. Stevens in the Senate and others. It has bipartisan support. It has the endorsements of a vast array of groups of interested Americans, the National Council of Senior Citizens, consumer groups, realtors, homebuilders, the Independent Insurance Agents. A whole potpourri of Americans who are concerned about this issue.

Chairman Kennedy has said that it deserves careful consideration. He's taking your advice, I think. He's being exceptionally careful on this issue and I applaud him for doing that. As a chairman he has some special responsibilities in that regard and I share his view. I've been on the Banking Committee just a couple of

years and I've had to sit through prolonged hearings and debates over the Resolution Trust Corporation and funding for the continuation of the Savings and Loan bailout and I haven't enjoyed that. And I don't think anyone has. They want to make certain depositors are paid but what about the mess that was created in the first place. We need to do this right.

We are supporting this bill because it seems to be a private sector solution that would not impose upon the taxpayers. Governor Chiles came to Washington a couple of weeks ago and spoke with Congressman Deutsch, myself, and the entire Florida delegation in assembly. The one insurance issue he raised was this bill. He asked us to try to pass the Mineta bill or some semblance of it. And we're going to try to do something responsible on that.

I'd like to ask you quickly because I know you have to go, John, if we were able to pass something akin to that bill that would create a Federal reinsurance fund what would be the consequences of that to the people we represent? Would insurance be more readily available? Would it be more affordable? Would the JUA rates be lower? What would be the real world consequences of that?

Mr. COSGROVE. I think the real world consequences, Congressman, would be that it would have a substantial material and dramatic impact on the availability and affordability and quality of insurance. I don't want to leave quality out. Just, you know, getting the \$1 million insurance policy for \$1 a year but you have to be hit by an Eastern Airlines plane on the fifth Monday of any month at the end of a runway. It's available and it's affordable but the quality of it isn't very much. And that's part of the debate we're going to be going on this week.

There's no question in my judgment that you could design a very similar fund to what we've done in Florida. I would agree, Mr. Chairman, neither this country nor this State should assume any risk. We're not in the insurance business. We're not assuming risks. There's no question that this country or this State should not be responsible for any deficit of that fund. There's no question that there should not be any rate increases or surcharges or assessments. However, a savings account or a safety net so that insurers can provide the coverage below the fund and be responsible for everything above the fund. There would be no bailout whatsoever, absolutely. What you want is that account in the middle. And I would suggest, as I said, that if you had a hold harmless provision in there for the Federal Treasury that you would still be able to create a substantial enough fund to do this. And shifting capital from shopping centers into the safety account would probably provide a better protection for Americans. So, that's the concept, Congressman Bacchus.

I believe that you would find that with the market forces that would take effect from that that insurance rates would not only stabilize but eventually even decrease somewhat as the cost, the spreading of the risk, went across America. So, therefore, when you're dealing with whether it's floods in the Midwest or tornados anywhere in America or—Mr. Chairman, the December winter storm that came in December after Hurricane Andrew that went up into Massachusetts and into the New York Harbor and caused almost 1 billion dollars' worth of losses for hurricanes right at the

end of—I mean, for Americans right at the end of 1993 adding another \$1 billion in losses to already the largest catastrophic losses in any year in the history of the world. And it went right through your district up there into New York Harbor.

Now, if—we call in Florida, 75-mile-an-hour winds, we call them a hurricane. Now, there were 75-mile-an-hour winds right there in New York Harbor. So, it doesn't have to be——

Chairman KENNEDY. I'm a little more concerned about Boston Harbor.

Mr. COSGROVE. And in Boston Harbor, going right up through there. So, it is pretty scary and the forces of those catastrophic losses can hit anywhere and that's just proof of it right there.

Chairman KENNEDY. Thank you, John. I know you have limited time. I'd like to go ahead and allow Congressman Deutsch to ask any questions he may have, Mr. Chairman.

Mr. COSGROVE. Yes, sir.

Chairman KENNEDY. Of course.

Mr. DEUTSCH. Thank you, Mr. Chairman. Let me focus on what we can do to develop (and Jim brought up the idea and you have and the chairman has mentioned as well, is that there is something on the table in Washington) a national program similar to what you probably and hopefully are going to adopt this week. I think there's a clear consensus that we as Members of Congress do not want the Federal Government to be at risk in this type of program. And, I believe that we would not be. However, we have the burden of proving to the public that this is not going to be another S&L bailout. Thus, I call everyone's attention to two Federal programs that are not bailouts: Fannie Mae and Freddie Mac. These are incredibly successful Federal programs which increased the opportunity for home ownership to hundreds of thousands of additional Americans by using the private sector, but with the Federal Government playing a role that only the Federal Government can play.

And I guess the one question is directed to two companies with extremely large market share; Allstate and State Farm, which together have probably about 50 percent of the market. The numbers of cancellations by the companies are 40 percent of the market. It is my understanding that Allstate and State Farm are essentially without reinsurance, and just have to reduce their sales in Florida. It's not like they don't want to sell in Florida, but they have too much at risk here. If they could just lay off a little bit on reinsurance they would keep selling.

At the practical level, about 2½ million Floridians may not be able to get insurance in several weeks if you don't pass legislation or emergency measures are not adopted. We need to articulate why it wouldn't cost the taxpayers any money, why insurers need and can't get reinsurance, and why a Federal program or a State program of reinsurance would solve this problem and create a win-win situation?

Mr. COSGROVE. Thank you, Congressman. Let me just say that, you know, I think Congressman Bacchus asked what would be the effect of this and how is it really going to operate. I'm very proud, I guess, somewhat of having some of the responsibility although Pat Taylor and many others on the study commission, many of my colleagues, the leadership of this State, everybody's worked on this.

But, I'm going to tell you that in 2 hours—in 2 hours the president of Allstate Property and Casualty Co., is flying in from Chicago to announce at a press conference at 1 o'clock that prior to this concept being on the table Allstate was going to cancel 300,000 policies in this State, 25 percent of their book of business; 300,000 times 3 to a household, 1 million people affected. If Florida adopts this plan the president is going to say, and I have his statement with me, that they will keep 97 percent of their business in this State. That's an A plus in anybody's book. That's the substantial material and dramatic impact of what we're doing.

And it's not going to cost. It is a shifting. And it will result in a shifting of how capital is handled by the insurance businesses of America. As I said, and they probably wouldn't like for me to say this but they will have less investments in shopping centers and buildings and more money to be held in accounts to pay policyholders. That's the difference.

If you have a hold harmless on the Federal level for your Federal Treasury it'll have no impact on the Federal level. And, if you require insurance companies to be responsible for everything up to the fund and everything after the fund, which they're willing to do it, will have absolutely no impact at all. You'll be shifting things around but you'll be providing the protection for consumers by having that safety account over here only to pay their claims. And, frankly, you're going to be controlling that, not the insurance companies, so they can't get into it to do other things with it.

Chairman KENNEDY. Mr. Cosgrove, I think all of us want to thank you very much. We wish you the best in your further examinations this week. We know that you've got important legislation that you're filing. We wish you all the success in the world and hope that all the purposes that you are trying to accomplish this week will be achieved.

Mr. COSGROVE. Thank you, Mr. Chairman.

Chairman KENNEDY. I wish you the best of luck. We want to thank you very much for joining with us.

Mr. COSGROVE. We are grateful Floridians. We want to thank you, Mr. Chairman, for taking time to be here at this hearing and for Congressman Bacchus and Congressman Deutsch who are some of Florida's finest that we have sent up to work with you and working on the problems of America. We're very proud of both of them and we're very happy that you were here to share in these experiences and to learn from us to make a better State and a better country.

Chairman KENNEDY. Terrific. And, Mr. Chairman, I should just say that sometime before we get too far into this we're going to ask you to come up to Washington and testify up there.

Mr. COSGROVE. I don't know if I'm going to do that.

Chairman KENNEDY. The next witness is Mr. McWilliams. Mr. McWilliams is head of McWilliams Marketing and we very much want to thank you for joining with us and as I understand it you run a real estate brokerage, specializing in residential sales. Mr. McWilliams currently serves on the board of the Homebuilders and Contractors of Brevard County and we want to thank you very much for being with us. Please proceed for 5 minutes.

STATEMENT OF TIM McWILLIAMS, PRESIDENT, McWILLIAMS MARKETING, INC.

Mr. McWILLIAMS. Thank you, Congressman Kennedy and members of the subcommittee.

We appreciate you taking the time to come and talk to those who are currently most affected by the windstorm crisis, Floridians. I believe it is important for you to understand that this is not just a single State issue. What if Andrew had taken its misery North to ravage the eastern seaboard or South and missed Florida completely and aimed its full fury at the gulf coast. You could just as easily be another State dealing with some other constituency. No, this is not just a single State issue. As a 20-plus year drought in Africa comes to an end this issue is here to stay.

As a realtor and a developer/builder my three primary concerns regarding property and casualty insurance is that it is available, affordable, and financially sound. Availability is the most significant. If insurance is unavailable to potential home buyers our economy will come to a screeching halt. Huge layoffs would commence and with job losses in the construction, banking, and real estate industries property values will plummet and the ripple effects will be enormous. All of this would be magnified by the devastation of a catastrophic storm damage.

Although we had no damage from the storm we experienced some of the fear and uncertainty in our local market after Andrew prior to the formation of the JUA. Previously, home buyers could expect to receive as many quotes for insurance as they deemed appropriate to pursue. Soon after Andrew it became apparent that free market competition was a thing of the past. Availability became our only concern. A home buyer would likely call 10 or more companies to get 1 quote. In this process one always had the fear that they just might not be able to get insurance. Imagine, if you will, what it would feel like if you woke up tomorrow and you and your neighbors could no longer sell your homes because buyers could not get insurance. It truly makes you apprehensive.

We in Florida are living under a false sense of security as the insurance industry prepares to cancel over 1 million policies state-wide. We must devise a system that insures the availability of reasonably affordable insurance to all. The State of Florida's short-term solution has been the formation of a JUA. However, the long-term financial viability of this plan is questioned by experts. In the long run, however, as homeowners, if we cannot afford insurance the effects on the economy were the same as if it were unavailable.

For example, an agent from my office recently had a contract on a house where the buyer made it contingent on the availability of affordable insurance. The contingency allowed for a premium of approximately twice the sellers current premium. The buyer proceeded to qualify for his mortgage while searching for affordable insurance. Before closing, the contract fell apart as the buyer could not find insurance for less than twice the current premium. Probably the most frustrating fact for the seller was that the buyer was a State Farm agent.

But being affordable is more than an issue of discretionary income to most Americans. It can mean the difference between a home of their own and no home at all as this, along with many

other costs, continue to drive up the cost of home ownership. Financial soundness is crucial to the long-term viability of any solutions. The fundamental theory behind insurance is simple; diversify the risk over the broadest possible base. The State of Florida's short-term solution of a moratorium and the formation of a JUA are only band-aids to hide a problem that reaches much deeper.

I'm certainly no expert when it comes to insurance. My knowledge does not extend past buying my personal policies and a few classes at the university. Although it seems logical to me that we have an opportunity to prevent the uncertainty and instability that has plagued Florida's insurance markets from happening to other Americans it is my belief that we should develop a nationwide windstorm pool. We must be cautious as to not to form another layer of government bureaucracy nor should this be an additional burden to the taxpayer. The solution should never preempt the competition of the free market system. This bondable fund should only be utilized for catastrophic events with certain high thresholds for payout. Participation would be mandatory for all insurance policies within potentially affected areas. The funding could come from a portion of the premium charged by insurance companies or a windstorm surcharge.

The windstorm fund would insure the availability of insurance to all those at risk of catastrophic windstorm damage. This would return certainty to our real estate markets in many areas. Also, this windstorm fund if structured correctly could have the overall effect of reducing insurance rates by spreading a risk across broad-based policyholders. The financial stability of the plan would be assured by the ability to bond the funds losses.

As a nation we are facing an insurance crisis. The loudest public outcry won't be heard until Mother Nature releases another monster storm against the United States. Andrew has taught us many lessons but it is up to us to take note and learn from them. Imagine the cost of the storm if the eye had landed in Fort Lauderdale or Miami. Can the insurance industry absorb \$40 or more billion in losses, and if not we know who would end up paying.

Let us prevent the taxpayer bailout of the insurance industry before disaster strikes again. Take this opportunity to pass legislation that will ensure that financial viable windstorm damage is available for all Americans.

[The prepared statement of Mr. McWilliams can be found in the appendix.]

Chairman KENNEDY. Thank you very much, Mr. McWilliams. Pat Taylor is our next witness.

Ms. Taylor is the executive vice president of Barnett Bank and is director of the bank's loan administration. Ms. Taylor served on the Governor's Study Commission as well, and we look forward to her views on this problem. Thank you very much for taking the time to be with us this morning.

Ms. TAYLOR. Thank you.

Chairman KENNEDY. Please proceed.

**STATEMENT OF PATRICIA TAYLOR, EXECUTIVE VICE
PRESIDENT, BARNETT MORTGAGE CO.**

Ms. TAYLOR. Mr. Chairman, members of the subcommittee, effective May 19, 1993, the legislature, through chapter 93.401, Laws of Florida, imposed a moratorium which stated that no insurer authorized to transact insurance in the State shall, until the expiration of this subsection, cancel or nonrenew any personal lines property insurance policy in this State, or issue any Notice of Cancellation of nonrenewal on the basis of hurricane claims.

At the same time a 13-member commission on property insurance and reinsurance was established. The commission was chaired jointly by John Cosgrove, who you've just heard from, chairman of the Committee on Insurance, the House of Representatives, and John Grant, chairman of the Committee on Commerce of the Senate. The commission members appointed by the Governor included Insurance Commissioner Gallagher, an additional senator and member of the House, four insurance consumers, a representative of insurance, a representative of insurance agents, reinsurance, and a representative of mortgage lenders. I was pleased to serve on that commission as the representative of mortgage lenders.

We were charged by law with the aggressive goal of reporting our findings to the Governor by September 15, 1993 and did so through the majority and minority reports of the Study Commission on Property Insurance and Reinsurance. Because of the time spent on that commission your chairman requested my testimony today and asked that I address certain issues.

The first issue is, what affect has the threat of a major insurer pullout had on the banking industry in the State of Florida? And you've heard Congressman Cosgrove relate that to you this morning very eloquently. But, I would like to add my comments that the effect has been one of speculation and uncertainty, both of which are counterproductive to the industry at a time when our challenge is to provide high quality product, affordable price and excellent customer service to the consumers of the State of Florida.

Frankly, the moratorium has effectively prohibited nonrenewals and cancellations but it has not ensured securing a new policy in high-risk areas even at a high premium. Actually, 44 companies have submitted plans to withdraw either completely or partially from the Florida market. These insurers have declared the intent to cancel or nonrenew approximately 840,000 policies, mainly residential. Again, these numbers do not address the difficulties new purchasers or consumers interested in refinancing have found in securing new policies. Many companies have participated in the threat of withdrawal simply to position themselves for negotiation. I believe the industry, the insurance industry, its capacity, availability, and affordability will never be quite the same as it was prior to Hurricane Andrew.

I'd also like to comment on my position on the findings issued within the report. And, in general, I agree with the findings issued within the report of the Study Commission including the recognition that the situation warrants compromise, and that's very important. Compromise on all sides. And that, ultimately, we will have some combination of increased costs which is, I think, what

you were getting at earlier, adjustments in coverage and hopefully improved means of mitigating the risk of hurricanes.

However, there are a few areas within the report that require, I think, further clarification. Number one, the Uniform Geographical Territories. I believe the recommendations requiring insurers to use Uniform Geographical Territories for the purpose of rating homeowner's policies is anticompetitive and will result in increased cost for the consumer without a comparable increase in value and may cause adverse consequences to the public leading to the absence of insurance coverage at any cost in some high areas. Some insurance companies have done very well over the years using their area models and identifying risk on an individual basis. Others have allowed aggressive sales goals rather than risk evaluation to influence them. But Andrew taught us a great deal about concentration of risk and that does not need necessarily to be mandated by the Department of Insurance. While premiums should be tied to risk evaluation the idea of mandated requirements of Uniform Geographical Territories for the purpose of rating policies by location I'm afraid is much too restrictive and does not promote additional capacity.

Nonrenewal. While I agree that any insurer who needs to re-evaluate their concentration of risk in a given geographical area should do so and submit the required plan to the Department of Insurance to ensure that any plan for nonrenewal makes sense and would result in an orderly transition, the Commission recommendation went beyond that to mandate that no insurer shall be allowed to cancel or nonrenew its in-force policies in excess of 5 percent to any designated risk area in any one calendar year. There is a proposed Sunset Law of 3 years. My concern is that insurers will view this as a continuation of the moratorium. I would prefer that prior to nonrenewal or cancellation a plan of operation would have to be submitted to the Department of Insurance and approved. The development of a fair plan might result in less cancellations and nonrenewals than the flat 5 percent per year which does not require justification beyond concentration of risk.

Number three. Another recommendation goes further than the existing moratorium by granting the Insurance Commission the authority to suspend Certificates of Authority of affiliates writing other lines of business when an insurer seeks to withdraw from the homeowners market. This lock-in provision would be a strong deterrent to companies writing any new policies in high-risk areas of Florida and will have just the opposite effect of discouraging insurance coverage for risks that are really unrelated to the current insurance problem.

The CAT Fund. The catastrophe fund proposal recommended by the Florida Insurance Council had a number of points with which I would agree. The trigger that the—this is the Florida Insurance Council, and for those people who don't know, this is a recommendation that was hammered out over about a year's time by the insurers who said, if we can come to some agreement we'd like to try to stay in the State.

This was their recommendation. The trigger was a hurricane of a category four or five. Also a three if the dollar amount of the gross estimated insured property losses in the State exceeded three

times the net direct written premium for property insurance or eligible property written in the preceding year. Currently, three times that premium would equal about \$7.2 billion. The amount of coverage the fund pays is specified percentage and what it did was to have a stated percentage which would kick in each year so that the insurance companies knew exactly what their liability and percentage of risk might be. Funding was a compromise. This is important. But the proposed alternative that the commission members suggested called for 10 percent as an annual assessment to insurers. Five percent surcharge against the policyholder and the additional emerging assessment of 2 percent which would be levied against property and casualty premiums in the event of a catastrophe.

It's very important to understand that this was a compromise. There was no win-win situation. As you've just mentioned earlier I think it's important to say that we recognize that the risk and the premium, the possibility of premium increase had to be shared. But if people knew exactly what that was and you could take, for instance, a \$300 premium and add 5 percent to it you might not be happy with 15 additional dollars but you would be satisfied if that were being applied to a CAT fund which was going to give some protection and keep insurers in the State.

As we speak, the Insurance Committee is working on the proposal which John mentioned, which really has attempted to blend the best ideas of all the parties who contributed to the CAT plan. The only real issue is that we implement one which will help to form the foundation of the plan to keep insurance available in the State of Florida.

One other comment and that is I was asked to comment on whether the Joint Underwriting Association is sufficient replacement if insurers are allowed to cancel or nonrenew. And the answer is, no. Unfortunately, Dr. Backs and the members of the Joint Underwriting Association board of directors and staff are working tirelessly to keep up with the present flow of applications and they're right that it is about 1,000 a day. They positioned themselves to be ready in the event that the moratorium were lifted but the JUA simply cannot make up the capacity that would be lost by the reduction in voluntary market.

In summary, I would just like to say that while I was asked to comment on what I believed would happen if the moratorium were lifted and no action were taken I would just say that while August 24 seemed like an awfully long time ago and the hurricane that made landfall that day cut a 30-mile strip right from coast to coast it's still very real, obviously, to the people like John who were personally involved and financially and emotionally impacted. We've heard from many of these people during the public testimony sessions held by the commission. Sensitivities have been raised and an extraordinary education process has taken place. The matrix of the best ideas which I'm referring to which any of you can take a look at in the commission report if you care to has been used to form the basis of the CAT plan and the bill which will be put in front of the Special Session of the legislature. Many members of the House and Insurance Committee, the State Commerce Committee, members of the Department of Insurance, and the commission worked together on a comprehensive recommendation to Governor

Chiles. And he, in turn, has charged that Special Session of the legislature to address and resolve the issue. I believe they'll take it seriously.

[The prepared statement of Ms. Taylor can be found in the appendix.]

Chairman KENNEDY. Thank you very much, Ms. Taylor. We appreciate your testimony.

Pepe Alvarez is our next witness. Mr. Alvarez is the president of the AIV Financial Group, the parent company of Union American Insurance Co. Mr. Alvarez, we very much appreciate your coming and being willing to testify today. Please try to keep your oral testimony to 5 minutes.

Please proceed.

STATEMENT OF PEPE ALVAREZ, PRESIDENT, UNION AMERICA INSURANCE

Mr. ALVAREZ. Mr. Chairman and members of the subcommittee.

Chairman KENNEDY. Could you pull that microphone a little closer there, Pepe?

Mr. ALVAREZ. OK.

Chairman KENNEDY. Well, you've got two now, so we ought to be able to hear.

Mr. ALVAREZ. My name is Pepe Alvarez. I'm chairman and president of Union American Insurance Co., a small property and casualty insurance company licensed and doing business only in Florida. I am a Cuban-American and I was born and raised in Cuba and I came to the United States seeking freedom and opportunity in 1961 at the age of 17. I came to this country penniless and in a lot of ways I represent the American dream.

Today, I own a small insurance company here in Florida and like many of my peers in the industry face the possibility of losing a lifetime effort. Without positive and constructive action by Congress and/or insurance regulators, small entrepreneurial insurance companies such as mine which provide a needed and valuable service to our community will disappear unless you can find a way to make catastrophic reinsurance affordable once again. I must withdraw from the market or lose my business. We are faced with an affordable reinsurance market and a Federal income tax law which forces us to pay taxes even when the company incurs a loss for statutory reporting purposes and its capital and surplus is depleted.

Government regulators must create the appropriate business environment for the private sector to provide the goods and services which the people need and want. There are events which the private sector could never handle alone and only government possess the resources to do so. The vacuum created by threat of the pullout would have to be handled by the government-run residual market. But is this really the answer to the problem? Is it exposure to another catastrophe such as Hurricane Andrew different for the residual market than it was for the private sector before Andrew? We believe that the answer is, no. The reserve for the RPCJUA will not be built fast enough to cover the losses which will result from another catastrophe like Andrew. And the private companies still pro-

viding coverage continue to be exposed to major losses and ultimate insolvency if such a disaster occurs.

Where will we find the resources to handle another major catastrophe? From the government. From a mechanism which will provide a safety net to protect the private sector in case of the unexpected catastrophe. A national catastrophe fund as suggested by Treasurer and Insurance Commissioner Tom Gallagher. To fund it, charge the insurance-buying public its fair share and identify the cost separately on the face of the policy. The American public has shown that it is knowledgeable enough to accept the necessity for such a fund and I believe they are willing to pay for it.

The commission finds that prior to Hurricane Andrew rates were too low to adequately account for catastrophe risks. An absolute reality. The commission recommends that the coverage be extended to provide replacement cost coverages and low ordinance coverage. It fails to insist, however, that rates be immediately raised to a level high enough to correct the inadequacy originally identified. And also failed to state that such adequate rates would probably be unaffordable to the average home or business owner unless the proper mechanism is created to spread catastrophic risk over a much wider base.

I suggest that only the Federal Government can provide such a mechanism. The commission suggests that the Department of Insurance should adopt by rule a Standard Hurricane Exposure Model. I submit to you that this model is complex enough and significant enough to warrant careful study and consideration and that it should not be implemented by rule or by any other mechanism without the benefit of a full open hearing and the total participation of the private sector.

As I said before, I favor the catastrophe fund. However, I think that the trigger mechanism must be carefully analyzed to make sure that this fund does not provide benefits only to the very large insurance companies while all of us little guys are paying for it. An event which does not trigger the fund under the proposed rules may very well wipe out some of us small operators. Consideration should be given to the plight of small companies. I suggest a combination of, A, rules limiting the geographic concentration of risk; and B, a mechanism which will enable the fund to come to the assistance of a small company once a certain percentage of the company's capital and surplus has been lost due to a catastrophe.

The commission suggests a funding mechanism of 10 percent assessment to the insurers and 5 percent direct charge to the policyholder. Who is kidding who? The policyholder will ultimately have to pay for the entire 15 percent. Therefore, let us call a spade a spade and charge the entire 15 percent directly to the policyholder. If the 15 percent generates excess funds then the consumer will see his costs reduced immediately.

The commission states that the purpose of residual market mechanisms is to provide shortrun or temporary solutions to extraordinary market circumstances. It also alludes to the fact that residual markets should be a market of last resort. This means that if the private sector is willing to offer a product at a price, then the residual market should offer a similar product only at higher price.

The free market system, ladies and gentlemen, works. Let us not lose sight of the lessons taught by Andrew regarding the costs of catastrophe exposure when we set the rates offered by the residual markets. The commission suggests that the legislators should initiate further study to adopt specific limits on RPCJUA assessments. This is critical. Nothing will do more to restrict the entrance of new companies to the market than the potential of life-threatening assessments. The RPCJUA assessments should be based on a combination of writings and capital and surplus, otherwise some of us small companies might be wiped out by an assessment even though we are careful in the conduct of our business and in the level of risk we individually assumed.

I believe the servicing carriers appointed by the RPCJUA have the ability to handle the additional insureds resulting from the expiration of the moratorium. The question remains, will the RPCJUA have the means to face an Andrew-like catastrophe? The RPCJUA relies on its ability to assess the insurers if the need arises. The private sector has been weakened to the point where it might not be able to handle such assessments and survive. Absent any action by the legislative I anticipate that once the moratorium expires insurers will go ahead with their plans to reduce their exposure and concentration of risk by either canceling risks or refusing to renew expiring policies. Such actions will cause the RPCJUA to absorb a greater number of risks, the activation of the commercial JUA, and the wind pool to increase its coverage area.

All of those mechanisms, however, have a common denominator, and ultimate source of fund to meet the demands for a catastrophe, assessments to the private sector insurer. As I stated before the question still remains will the private sector be able to handle such assessment? The answer is no. The small insurance company cannot survive without some relief from our government and our regulators. The relief must help the free marketplace, not replace it with a quasi-governmental operation in the residual markets. The creation of a catastrophe coverage fund is the key.

Thank you very much.

[The prepared statement of Mr. Alvarez can be found in the appendix.]

Chairman KENNEDY. Thank you very much. We very much appreciate your testimony, Mr. Alvarez, and thank you for coming. Paul Fraynd.

Mr. FRAYND. Fraynd.

Chairman KENNEDY. Mr. Fraynd is our next witness. Mr. Fraynd is the president and CEO of the Aeries Insurance Co. Mr. Fraynd is also the founder of a financial services company that deals in insurance, reinsurance, and banking. Mr. Fraynd, thank you very much for joining with us this morning and please proceed for 5 minutes. We appreciate your testimony. Please proceed.

STATEMENT OF PAUL FRAYND, PRESIDENT AND CHIEF EXECUTIVE OFFICER, ARIES INSURANCE CO.

Mr. FRAYND. Thank you, Mr. Chairman and members of the subcommittee. I want to thank you for the opportunity to testify here today.

The insurance industry in Florida has been greatly affected and won't ever be the same since August 24, 1992 when Hurricane Andrew struck the Florida coast, specifically south Dade County. The massive destruction made by Andrew prompted all reinsurers to hit the panic button. Many large and small insurers who lacked sufficient capacity for reinsurance became insolvent, including subsidiaries of large life or mutual insurers. Several parent companies invested sufficient equity in their subsidiaries to avoid insolvency but many did not. Subsequently, the insurance subsidiaries were liquidated.

Currently, the estimated loss from Hurricane Andrew is well over \$17 billion and it has changed the way property insurance is written in Florida. Over 35 insurance companies have withdrawn from the State or have plans to. This will create a tremendous availability crisis, especially in homeowners and commercial habitational property.

The primary cause for lack of insurance is the severe price increases imposed by reinsurers on all renewal catastrophe coverage subsequent to Andrew. It is true that reinsurance had large losses but they also have not had large catastrophe losses in Florida for the last 20 years. After January 1, 1993 more carriers suspended writing new homeowner's insurance as well as new commercial property. After realizing that they were not able to place their catastrophe protection at an affordable price massive nonrenewals and cancellations of homeowners began. Renewals on these policies were only offered excluding wind or hail coverage. In essence, insurers were willing to offer the customary homeowner policy but excluding any damage due to wind or hail. Florida domestic insurers experienced a surge in new business at the beginning of 1993 and due to the size limitations were unable to offer renewal quotes to all available customers nor pass through to its customers the large increases in CAT costs, which were between 100 to 300 percent.

You have to imagine how hard it was for us to get reinsurance at the end of 1992 after hitting the reinsurer with a tremendous loss. We had no other choice but to accept their price. We are told that this year this price could even double for us. The Department of Insurance took several steps in order to avoid the massive pull-out initiated by large companies, placing a moratorium on cancellations and nonrenewals until November 15, 1993. This was a drastic measure but was the only way to avoid the proposed mass exodus indicated by most major property and casualty carriers.

The Residential Property and Casualty Joint Underwriters, known as RPCJUA, was formed for the purpose of offering the public an alternative insurer. The potential for this new insurer to write 1 to 1½ million policies is quite realistic. All losses incurred by this new insurer will be paid by other insurers writing homeowners in the State of Florida. I believe that not only will it be unable to handle the enormous surge of business but it is creating the largest concentration of homeowner property insurance in one insurer anywhere in the world.

If the RPCJUA continues to accumulate exposures in property at the proposed numbers without taking into consideration the fact that it lacks reinsurance protection and geographical distribution,

which is the basis for insuring risk, the next hurricane to hit south Florida will bankrupt the insurer as well as all the other companies left in Florida because they will be unable to pay for the huge assessments. It is my belief that if the moratorium is lifted on November 15 the massive exodus will begin.

Currently, insurers have some wind coverage available through the Florida windstorm pool which offers wind coverage at affordable prices. However, with large deductibles, not all risks qualify due to their geographical position. In addition, limits offered are insufficient.

When an agent attempts to put together a homeowner's policy for a house they must get coverage from a homeowner insurer or the JUA then add wind with the Florida Windstorm Pool then place excess wind from surplus lines or Lloyd's of London, finally placing the flood with the Federal Program. This process is expensive for both the agent and the consumer and in many cases impossible to complete.

Several other discussions regarding instituting a State Catastrophe Reinsurance Program funded by a surcharge on the homeowner's premium has been proposed but it would take many years for a fund of sizable amount to be accumulated in order to pay for a hurricane such as Andrew or even one of average strength.

The current insurance crisis initially began with Florida but it is rapidly expanding to other States. I believe that the solution to this problem would be to add wind and hail to the existing Federal Flood Program, which has been in place for several years. Currently, insurance can sell flood policies and reinsure through the Flood Program. Why not add wind and hail, which will allow all insurance companies to calm their fears of imminent insolvency if another hurricane were to strike the east coast?

Thank you.

[The prepared statement of Mr. Fraynd can be found in the appendix.]

Mr. BACCHUS [presiding]. Thank you, sir. The chairman will return in a minute.

Our next witness is—John, help me with this—is it Machnic?

Mr. MACHNIC. Yes.

Mr. BACCHUS. John Machnic. Mr. Machnic is the South Florida Program director for the Florida Consumers Action Network, which is a very fine organization and whose organization is a grassroots consumer organization with more than 40,000 members throughout Florida. The Florida Consumers Action Network has been vigilant in its efforts to protect Florida consumers. And we're happy to have you with us here this morning. Please proceed, Mr. Machnic, for 5 minutes. The chairman will be returning in just a moment.

STATEMENT OF JOHN MACHNIC, DIRECTOR, FLORIDA CONSUMERS ACTION NETWORK

Mr. MACHNIC. Thank you, Representative Bacchus. Members of the subcommittee.

We appreciate the opportunity to testify before this subcommittee.

A cloud is hanging over the Sunshine State. This cloud is the result of poor management decisions and the investment decisions of

an industry, the insurance industry. It is not the result of Hurricane Andrew. While devastating to many homeowners in Florida Hurricane Andrew has been nothing more than a convenient event for the insurance industry to cry wolf. They've done so in the past in Florida. In the child care crisis, the insurance crisis, the medical malpractice insurance crisis. Currently, we're hearing a workers' comp insurance crisis. All of these crises have ended up in the insurance industry getting a large rate increase and the crisis going away.

For generations we have looked to the insurance industry for security. The industry has been part of our American dream, the dream of home ownership. We have all grown up with this dream, that if we work hard enough, save enough, we'll be able to buy our own home. In Florida this dream is becoming a nightmare. Our security is gone, the rock is crumbling, the good hands people no longer hold their hands out. Homeowners go to sleep at night with the uncertainty of November 15 drawing closer.

Come November 15, approximately 1 million homeowners could receive a letter informing them that in 45 days their insurance will be canceled. They have no alternative other than the JUA at that point. And what does this mean? I'll tell you in some very simple numbers. One of my board members living on the west coast recently had their homeowner's insurance canceled. They had to go to the JUA to get homeowner's insurance.

Her insurance was canceled after having it for 9 years with Allstate because they had made too many claims in the last 5 years. They had made three claims. One for \$236 because of wind damage to their chimney. Another because a tornado came through and took parts of their roof off and caused severe water damage; and that totaled \$24,009. And then a third claim because of a leaky pipe caused by the tornado.

She had originally been paying \$348 a year for the insurance, for her homeowner's insurance, and that came with windstorm protection. Now, after she has gone to the JUA she's been required to pick up flood insurance, \$294 a year with a \$5,000 deductible, totally useless. She's paying \$403 for her homeowner's policy now, and on top of that, because the JUA does not give windstorm protection with their basic homeowner's policy, she's paying another \$214 for her windstorm policy. Total of \$911. A tremendous increase from just \$348. Take that to the average consumer in this State, it will be a tremendous effect throughout this State.

In fact, she feels she is getting much less insurance now than she had originally been paying for and getting much less. And one of her, in her terminology, she thinks that the insurance industry does not care about insuring homeowners any longer but simply collecting their premiums. When she's asked them to be there, they haven't been there.

We feel in this State, and we're working in Tallahassee for this, that we have to have an independent consumer advocate. We don't have the information across this country that will allow these insurance companies to increase their rates as they want. We need an independent insurance consumer advocate in Florida and I'm sure we probably need that across the country. We've looked at the Study Committee's findings and we agree with most of the find-

ings. The only thing we do not agree with is the catastrophic loss pool. We do not feel that should be done just in Florida, but I think it needs to be done across the country, especially after this summer and now just recently out in California.

We as consumers need to feel that we have the security. Right now that security is not there. We don't know what will occur. If there is a problem with our home we don't know if we can get it, get homeowner's insurance. And that security must be there for us to sleep well at night.

Thank you very much.

Chairman KENNEDY [presiding]. Thank you very much. We appreciate your testimony and I have found that Consumers Action in Washington has been very helpful to us in providing us very useful information in trying to fashion a much more consumer-oriented insurance industry in this country. But as you know, it's difficult, Mr. Machnic. So thank you very much for your testimony.

I have a couple of issues that I'd like to try to get a handle on. First of all, I want to go back to our first witness, Ms. Cisewski.

You mentioned in your testimony about some very large rate increases, I think you said 43 to 61 percent premiums, 200 percent deductibles. I'd like to get a handle on what—if you have an apartment that's worth, \$150,000 or \$100,000, a condominium, how much do you pay in dollar amounts for this kind of coverage?

Ms. CISEWSKI. OK. This pertains to the association's insurance now because we have to deal, we in the condominium area have to deal with two sets of problems—

Chairman KENNEDY. Are you a condominium owner?

Ms. CISEWSKI. I am a condominium owner.

Chairman KENNEDY. And do you mind sharing with us about how much your condominium is worth, in general?

Ms. CISEWSKI. I can use ours as an excellent example and it'll knock your socks off, so to speak.

Chairman KENNEDY. Great. I'll pull them right up there.

Mr. BACCHUS. Is that because it's worth so much or because the insurance is so high, Sharon?

Ms. CISEWSKI. We have a 50-unit condominium and it was originally insured for \$1.6 million and our insurance premiums were \$3,400 a year.

Chairman KENNEDY. And what year was this?

Ms. CISEWSKI. This was 1992, before the hurricane.

Chairman KENNEDY. OK. So 50 units—

Ms. CISEWSKI. Fifty units. And each—

Chairman KENNEDY. And it was one point—

Ms. CISEWSKI. Well, as an association, we were paying \$3,400 on a \$1.6 million policy to cover the common elements of the condominium. And in addition to that each one of the individual condominium unit owners has to carry a homeowner's insurance policy. And we don't get involved in that. But the basic—

Chairman KENNEDY. But your homeowner's would be what, would cover—

Ms. CISEWSKI. The contents of our condominium.

Chairman KENNEDY. The content. OK.

Ms. CISEWSKI. See, condos have got two sets of insurance—

Chairman KENNEDY. Yes, but which policy covers the damage that would be done by a hurricane?

Ms. CISEWSKI. The master policy, the association master policy, would be the structure itself—

Chairman KENNEDY. And that's only \$3,400? That's not \$3,400 per apartment?

Ms. CISEWSKI. No, that's \$3,400 for the master—

Chairman KENNEDY. For the whole kit and caboodle.

Ms. CISEWSKI. Right.

Chairman KENNEDY. So it's 70 bucks—I mean 50 people divided into the \$3,400 before the hurricane?

Ms. CISEWSKI. Yes.

Chairman KENNEDY. Yes. OK. That's pretty good.

Ms. CISEWSKI. And we pay that through maintenance fees, OK? Then when we got our—our policy was canceled because of Hurricane Andrew. Our premium went from the original \$3,400 to \$10,500, and our deductible went from \$1,000 to \$35,000.

Chairman KENNEDY. \$1,000 to \$35,000.

Mr. BACCHUS. And I'll say, Mr. Chairman, that is typical of our condominiums here locally based on the testimony I've heard at our town meetings.

Mr. DEUTSCH. And, Mr. Chairman, the ratios are similar in south Florida as well.

Ms. CISEWSKI. Now, what we were subsequently able to do—now, we had to just grab at this policy because it was the only company that would offer us coverage. And Florida law mandates that the condominiums carry master policies. So we had no choice but to pay \$10,500. We were subsequently able to get a policy through another company and that has reduced our premiums down now to \$6,400 a year.

Chairman KENNEDY. Now, on this—just so I get a handle on—

Ms. CISEWSKI. So it ended up a net increase of a few thousand.

Chairman KENNEDY. On the \$35,000, you know, going from \$1,000 to \$35,000, now, on an annual basis would your building collect any money from the insurance company?

Ms. CISEWSKI. The last time we put a claim against our insurance company was in September 1979 when Hurricane David struck.

Chairman KENNEDY. My God. Was that a major loss?

Ms. CISEWSKI. It was about a \$30,000 loss.

Chairman KENNEDY. Goodness gracious.

Now, let me pursue something for a second. I got the impression, Ms. Taylor, that you were involved in a negotiation with the people on all sides of the aisle trying to work out a compromise proposal. I suppose the deposition can be filed in the next couple of days, but—

Ms. TAYLOR. Yes, hopefully, it is.

Chairman KENNEDY. There were some fairly serious charges that Mr. Machnic made at the end of the testimony this morning indicating that some of these fees that Ms. Cisewski is going to have to pay were really unwarranted. I'd like to get a sense of where you are in terms of what the real costs that homeowners are having to incur here are and whether or not you feel that they are truly justified.

Ms. TAYLOR. Well, I think that as I said in the testimony, and the point that I would like to make is that I think that during this moratorium we have all been subject to unbelievable pressures in terms of availability of insurance. And while the moratorium was very specific about the fact that companies could not cancel or nonrenew, it didn't really say anything at that point in time about premiums. So there was a period of time until the commissioner announced the new rates where companies saw this as an opportunity to move on associations like this condominium association and individuals where to have insurance available to them was unbelievably pricy.

And that goes to the very heart of what we're talking about here this morning, that the only way we can prevent that kind of thing from happening is by having competition. And the only way we're going to keep the competition in the State is to affect some compromise relative to this whole issue.

Chairman KENNEDY. Correct. I appreciate your answer, Ms. Taylor. I would like to address my last question to Mr. Machnic for a response. Thank you.

Mr. MACHNIC. An example of how the numbers look, first of all, all the numbers that have gone to the insurance commissioner have been supplied by the insurance industry through their models and essentially that committee—that insurance commissioner and his department have done nothing more than processing the paperwork, making sure the i's are dotted, the t's are crossed. And from that the rates come out as what the companies have asked for. Whether they're justified, we don't know because we don't have independent data.

Allstate has claimed, has been arguing or has been crying the most, yet their surplus is \$4.8 billion and they gave a dividend to Sears in 1992 of two cents, up one cent from the year before. So while they're crying that they're going bankrupt or they're going to go under, their dividend to Sears went up. There's conflicting data here on whether the rates are justified or not.

The other thing about when we talked about competition in the insurance industry, we're never going to have competition in the insurance industry until we get rid of McCarron Ferguson. We get rid of McCarron Ferguson, maybe we'll have competition. But until that occurs they're exempt from most antitrust legislation.

Chairman KENNEDY. Thank you very much.

I just want to say how much I appreciate all of your testimony. We will be looking at this issue very, very seriously in legislative form at some point in a short period of time in Washington, and your testimony is very, very helpful in trying to give me at least some sense of the impact that this has on the family, Sharon, and also the troubles that many of you as independent businessmen are facing; whether you're in the building industry or in the selling of insurance.

I have a very healthy skepticism of the industry in and of itself. I don't think any of us want to have that skepticism carried to the point where we end up abandoning homeowners and having people in situations where they just can't find insurance.

On the other hand, I think the notion of gaining independent access to data is critical for us to draw conclusions about insurance

availability. We are working hard right now at trying to get independent data on a number of different fronts from the industry and look forward to working with all of you to try and fashion the kind of solution to these problems that really can provide homeowners protections but not do it to the extent of just padding company profits without asking them to accept a reasonable level of risk as well.

So thank you all very much for your testimony. I'd like to now turn it to Mr. Bacchus.

Mr. BACCHUS. Thank you, Mr. Chairman. I have brief questions first to Mr. Machnic, then for Mr. Schlitt, and then for Mr. McWilliams.

Mr. Machnic, I'm trying to understand precisely what you've proposed in the way of an independent consumer advocate. Looking back into my early manhood I worked in Tallahassee in the midseventies with Reubin Askew when he was Governor. That was just after the period of the first oil embargo, utility rates were rising rapidly, there was some concern about the independence of the Public Service Commission. We created at that time an independent counsel who is an advocate for the consumers of Florida before the Public Service Commission. I believe that has been an excellent reform that's worked well. I hear a lot about homeowner's insurance but not as much these days about utility rates.

Are you advocating something similar be done in terms of insurance issues?

Mr. MACHNIC. Yes, definitely. We're working with the independent counsel at the Public Service Commission right now regarding Southern Bell's rates. That works tremendously and that person has his own staff, he has his own access to data, two expert witnesses to testimony in his own budget outside the Utility Commission. So that type of a model, I think, needs to be put into place for the insurance commissioner also.

Mr. BACCHUS. Thank you, sir. And if I were in the legislature of the State of Florida I would advocate that.

Mr. Schlitt, thank you for your testimony. I was struck by it, in particular, because of what you said about the barrier islands. Sharon told us that folks who live within 500 to 1,000 feet of the water just aren't able to get insurance. And, Mr. Chairman, I want you to know that that is not just a handful of people in our district. About three-fourths of the people that I've been privileged to represent live near the coast or on barrier islands. I live on a barrier island myself called Merritt Island. I think I live within 1,000 feet of the water. I don't live on the water but if you go upstairs into my little girl's bedroom on a clear morning you can look out and see the Banana River. And we're all affected. That's a lot of people.

And Mr. Schlitt, I notice that you testified that there are absolutely no companies willing to write policies on the barrier islands and that therefore you're having to write policies exclusively on the State JUA. The town meetings that I held led me to believe that the rates of the JUA at the State level are considerably higher than the rates of other companies. And that while people are gratified that the State JUA is there, oftentimes they can't afford their rates. And you're telling me that you get 50-percent less in the way of a commission with the JUA anyway.

Why are the rates higher? Can what they're proposing at the State level today help with that or do we need some Federal action?

Mr. SCHLITT. Well, the rates are supposed to be actuarially projected based upon data available to the insurance commissioner. And so those are supposed to be sound rates. They wanted to create the fund, as I understand it, so it would not be competitive to private industry and that it would be stable so that it wouldn't create a large assessment should we have a loss. But, obviously, the rates before were inadequate, will go up. The fact is, though, that the reinsurance companies are encouraging their companies saying they'll provide reinsurance away from the barrier islands, so that there is really no reinsurance available, and so companies are just not willing to extend their exposure to those. And that's the reason for it.

A concern that Ms. Taylor brought up and I want to reiterate, and that is if we have the Catastrophe Reinsurance Program, which I strongly endorse, is that there has to be an incentive to be able to write those along the coast, particularly the barrier islands. Even though we pay more premiums for that there still should be an incentive for those companies to write as there is right now in the windstorm pool. Right now there are incentives for companies to be able to write those and say OK, that will cause me to get less of an assessment, and I feel that our selectivity in doing with business or clients we want to do business can do so more competitively. And I think that's important, otherwise it would create just a reinsurance program and not provide that than all of the companies are going to say, yeah, I'm going to write all the business I can get in central Florida. And as a result we will still not have a market along the barrier island and the waterways. And that concerns me greatly. And I haven't seen the legislation and I hope that that is an issue that they will address.

Mr. BACCHUS. Thank you, Mr. Schlitt.

Mr. McWilliams, my final question relates to an issue that you raised that I think is very, very important, but that we haven't addressed at any length yet today.

Much of our local economy depends on transactions in real estate. Growth in real estate has led us out of every recession since World War II because of turnovers and increases in home ownership. We now have the lowest interest rates we've had in 20 years. We still are suffering from a recession in the real estate industry. Much of what I've heard from my town meetings and from other sessions with realtors and home builders and from prospective home purchasers and others is that it doesn't matter how low the interest rates are because in many cases people just can't get insurance, so they can't close the deal.

Is this holding up what would otherwise be a much more buoyant real estate recovery?

Mr. McWilliams. Yes, sir, I do believe that it's knocking people out of the market or it's making them take a home that they could have had, something that maybe had additional bedroom or another bath or a pool or something that would benefit their family. And it's basically adding an additional payment to the life of that home ownership, but the rates go up that much. And so it limits

what they can buy and it knocks down a level of what's becoming an affordable real estate market with the lower interest rates, it's making it less affordable and people can buy less. Or those people on the very low end that could move up into home ownership it's preventing them from doing that.

So that's the worst of it is the people on the very low end that we're working so hard through programs like Habitat for Humanity to find them an affordable home. Can't do it because this is just another barrier to prevent them. And if it's something that can be prevented on a national level and it doesn't add an initial burden to the taxpayer, let's do it, let's find a solution, let's come to, let's get the insurance companies together and the consumer advocates together and develop this plan and do it nationally so we can turn around and put the liquidity back into the real estate market.

Mr. BACCHUS. So I hear you saying that this is costing a lot of young people a chance to purchase that first home or a lot of others a chance to move up in the home market. In doing so it's affecting our ability to create economic growth, this is costing us jobs?

Mr. MCWILLIAMS. Yes, it costs us jobs throughout the market, all the way from construction, all the way through real estate, banking. You know, my one deal that we had, the one contract we had, we lost money; the sellers were going to buy a new house, they lost money; the buyer was moving into this area, he no longer is here. It just reverberates through the entire economy. And that's just one of many, many examples out there.

Mr. BACCHUS. Thank you, Mr. McWilliams. And thank you, Mr. Chairman.

Chairman KENNEDY. Thank you very much, Mr. Bacchus.

Mr. Deutsch.

Mr. DEUTSCH. Thank you, Mr. Chairman.

I'd like to ask both Mr. Alvarez and Mr. Fraynd to explain the reinsurance industry from the perspective of a company. Either of you can take the lead.

Just as we talked about a condominium association and their rates going up, you mentioned dollar amounts that you paid. I think it would be helpful to mention the specifics of how much you pay for reinsurance and how much that's gone up in this same 12-month period. Please, also talk about why you need reinsurance.

Mr. FRAYND. Basically, you can look at our companies as consumers as well. Small companies, basically, take a large retention on any one risk. Just like a consumer would take \$250 on a car, we take \$10,000 or \$15,000 loss per car. The balance of it we reinsure. If we do not reinsure it we would be exposing the company to bankruptcy, just on not even a hurricane, on a simple flood or anything like that.

So what is happening to us right now is that we are being forced to buy—we can afford less reinsurance, we have to buy bigger deductibles. And homeowners, for example, is one line of business that they have targeted as they will not offer us reinsurance if we have homeowners in our book. So we are really facing the same problem that the consumers but at a different level.

Mr. DEUTSCH. I think it might be helpful for other subcommittee members and myself, to know how much do you reinsure; how much loss on potential loss do you reinsure; what could the actual

costs be; what are the prices and the deductibles; and how do they change?

Mr. FRAYND. We had—in the area that the hurricane struck we had approximately \$100 million of insured property. We paid last year about \$500,000 for that coverage. It covered us correctly. For that same coverage this year we're paying \$1½ million. So, there is no way that we can pass through consumers \$1 million more added to their premiums.

First of all, we aren't rate regulators. Some of the companies that you hear going from \$1,000 to \$20,000 are usually nonregulated companies that people are now forced to buy. We are members of the Florida Guaranty Fund and we are State rule form and rate regulated. So, reinsurers are not, they put whatever premium they want and we have to find a way of covering it. And the only way we can cover it is by reducing our overhead and reducing commissions to brokers and try to get rate increases. It is not an easy task.

Mr. DEUTSCH. How do you respond?

Mr. FRAYND. The only way to respond is by limiting the exposures that we write. We have no other—

Mr. DEUTSCH. So what's happening to State Farm is in a sense happening at your level as well?

Mr. FRAYND. We know we can write no more than \$100 million in a county. So once we reach that we have to stop writing.

Mr. DEUTSCH. Of this \$100-million potential loss, how much are you actually carrying yourself and how much do you reinsure?

Mr. FRAYND. Last year we carried a \$250,000 deductible; this year we're carrying close to \$1 million in deductibles. For three times the premium and we're now carrying triple the deductible.

Mr. DEUTSCH. Mr. Alvarez, if you want to follow—

Mr. ALVAREZ. Yes, this is mainly in the catastrophe end of it, OK? For instance, you know, in our company if I would write today a \$1 million policy exposure, for a \$1,000 premium for instance, I would probably have to pay 42½ percent of that premium toward the catastrophe coverage that I have. That's what it will amount to. And by the time I pay my catastrophe and taxes, I don't have enough money to pay any losses. So every time that I write a policy of this nature I would go deeper and deeper in the hole.

That's why it's so important that we create some sort of a catastrophe fund.

Mr. DEUTSCH. From your company's perspective, how much are you reinsuring, what are the prices that went up last year—

Mr. ALVAREZ. Same way. I had a \$250,000 deductible and I was paying about \$780,000 for—

Mr. DEUTSCH. For how much coverage?

Mr. ALVAREZ. For approximately \$14–\$18 million. This year I have a \$1½ million deductible and I'm paying in excess of \$2 million, for less coverage.

Mr. DEUTSCH. And I guess my final question is I'm assuming you've looked at what the State is proposing and H.R. 2873, the national disaster insurance legislation.

How do you think these proposals will affect your companies and ultimately the consumers that you're selling to?

Mr. ALVAREZ. Well, I believe that if we can create a national fund it would be more acceptable at this point than just a State fund. The reason is because the only way that the State fund can assess or cover all the losses is by assessing the companies that are here. At a national level, you know, everybody at this point in time, every consumer out there knows the need for catastrophe insurance. Look what just happened in San Diego, look at all the losses that we have had this year.

So I think that if we can take away from the actuarials or the actuaries and insurance the companies a cost of that, because nobody can predict how much it's going to be. We can't and, believe me, the State of Florida regulates the premiums. We don't just go ahead and charge the premium we want, we have an actuarial department and sometimes it takes more than 6 to 8 months in order to get a rate increase.

But no one at the insurance department or at the insurance company level can actually predict what the losses are going to be and how much do we have to charge. You know, for instance, take the condominium. I've been hearing all this about condominiums paying \$3,400 a year and it went to \$10,000. Well, for years they've been writing this at a discount. If we were to write this at the right rate dictated by ISO it should have been over \$10,000. And if we were to do this today through the JUA it would be—the \$10,000 plus another 25 percent.

So by eliminating this, and believe me, all we're doing at this point is trying to pass the cost of what we have to pay the consumers, which we cannot because the State, the Insurance Department would not allow us to pass it on completely. And this is the only way we can reduce our exposure and walk away from this type of business.

Mr. DEUTSCH. Thank you very much.

Chairman KENNEDY. Well, thank you. I want to thank all of our witnesses for participating in this morning's hearing. As I mentioned, your testimony will be included completely in the official record. We want to make sure that you understand how important we in Washington feel this issue is.

Mr. Bacchus and Mr. Deutsch have brought this issue to my attention from the first moment that I took over the subcommittee and have been extremely active in trying to get the Federal Government to focus in on it. I think it's been enormously instructive and I want to thank all of you for your efforts here this morning.

We also want to thank those who didn't testify who nevertheless have demonstrated their concern about the issue by being with us this morning. We very much appreciate your participation as well.

There being no further questions, on behalf of the subcommittee, I want to express our appreciation to all of those who are here with us today. We would like to ask unanimous consent that the record be kept open for a period of 4 weeks so that additional views may be submitted.

Hearing no objection it's so ordered.

The panel is excused and the subcommittee is in recess.

[Whereupon, at 12:05 p.m., the hearing was adjourned.]

APPENDIX

November 1, 1993

JOSEPH P. KENNEDY R. MASSACHUSETTS CHAIRMAN
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SUBCOMMITTEE ON CONSUMER CREDIT AND INSURANCE
 OF THE
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS

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STATEMENT OF REPRESENTATIVE JOSEPH P. KENNEDY II (D. -- MASS.)
REGARDING THE INSURANCE CRISIS IN AREAS AT RISK OF
NATURAL DISASTERS

MELBOURNE, FLORIDA
NOVEMBER 1, 1993

THIS MORNING THE SUBCOMMITTEE ON CONSUMER CREDIT AND INSURANCE EXAMINES THE HOMEOWNERS INSURANCE CRISIS IN FLORIDA AND OTHER AREAS OF THE COUNTRY AT RISK OF NATURAL DISASTERS. THIS IS THE SECOND HEARING THAT THE SUBCOMMITTEE HAS HELD ON THIS TOPIC IN THE LAST 6 MONTHS. TODAY, WE WANT TO EXAMINE WHAT HAS CHANGED, AND WHAT STILL NEEDS TO BE DONE, TO ENSURE THAT FLORIDIANS RECEIVE THE INSURANCE THEY NEED TO BUILD SECURE LIVES FOR THEMSELVES AND THEIR FAMILIES.

IT HAS BEEN SAID THAT THE ONLY PEOPLE WHO CAN GET DECENT INSURANCE IN THIS COUNTRY ARE THE ONES WHO DON'T NEED IT. THAT HAS CERTAINLY BEEN TRUE IN THE AREA OF HEALTH INSURANCE. AND MANY NOW FEAR THAT IT IS BECOMING TRUE IN THE AREA OF PROPERTY INSURANCE.

1992 WAS THE WORST YEAR OF NATURAL DISASTERS IN OUR NATION'S HISTORY. HURRICANE ANDREW, HURRICANE INIKI, AND THE DECEMBER STORM THAT RAVAGED MUCH OF THE EAST COAST DESTROYED OVER \$23 BILLION WORTH OF PROPERTY. SINCE THEN, THEY HAVE TRIGGERED AN INSURANCE CRISIS OF UNPRECEDENTED SIZE AND SCOPE.

MILLIONS OF AMERICANS IN FLORIDA AND OTHER STATES HAVE FAITHFULLY PAID THEIR PREMIUMS FOR YEARS, EVEN DECADES. YET, THEY NOW FIND THEMSELVES FEELING ABANDONED AND GOUGED BY THE COMPANIES THEY TRUSTED FOR SO LONG. THEY ARE BEING DROPPED BY THE "GOOD HANDS" PEOPLE. HERE IN FLORIDA, OVER HALF A MILLION RESIDENTS FACE THE IMMINENT CANCELLATION OF THEIR HOMEOWNERS INSURANCE WHEN THE CURRENT MORATORIUM EXPIRES ON NOVEMBER 15TH. AND MILLIONS MORE FACE PREMIUM INCREASES OF ANYWHERE FROM 40 TO 65 PERCENT.

THIS SAME PATTERN OF MASSIVE DISLOCATION AND STICKER SHOCK IS EMERGING THROUGHOUT THE COUNTRY, FROM NEW YORK TO CALIFORNIA TO KANSAS. AND IT IS HAVING DEVASTATING CONSEQUENCES ON THE ABILITY OF COMMUNITIES TO MAINTAIN ECONOMIC STABILITY.

FINDING A SOLUTION TO THIS CRISIS WILL NOT BE EASY, AND WILL REQUIRE ALL OF US -- INSURERS AS WELL AS CONSUMERS, AND STATE AND LOCAL AS WELL AS FEDERAL GOVERNMENTS -- TO WORK TOGETHER. FLORIDA OFFICIALS -- PARTICULARLY GOVERNOR CHILES, COMMISSIONER GALLAGHER, AND REPRESENTATIVE COSGROVE, WHO WE ARE PLEASED TO HAVE WITH US THIS MORNING -- HAVE TAKEN IMPORTANT STEPS BY IMPOSING THE 6-MONTH MORATORIUM ON CANCELLATIONS, AND ESTABLISHING A BLUE-RIBBON COMMISSION TO HELP SHAPE A PERMANENT SOLUTION.

IN MY VIEW, THERE ARE SEVERAL STEPS THAT SHOULD BE TAKEN IF WE ARE GOING TO PROTECT HOMEOWNERS. FIRST AND FOREMOST, COMPANIES SHOULD NOT BE ALLOWED TO DROP CUSTOMERS LIKE HOT POTATOES. ANY WITHDRAWALS FROM A STATE SHOULD BE CAPPED AT 5% OF POLICIES IN FORCE FOR ANY ONE YEAR. THIS IS THE BEST WAY TO AVOID A PANICKY OVERREACTION BY INSURERS TO A NATURAL DISASTER.

SECOND, STATES SHOULD REQUIRE COMPANIES TO SUBMIT BUSINESS PLANS THAT EXPLAIN MASS CANCELLATIONS. THESE PLANS SHOULD BE MADE PUBLIC, AND SUBJECTED TO PUBLIC DEBATE. AT THE VERY LEAST, PEOPLE SHOULD HAVE A RIGHT TO KNOW WHY THEY ARE LOSING THEIR POLICIES EN MASSE.

THIRD, INSURANCE COMPANY CLAIMS ABOUT THE NEED TO CANCEL POLICIES AND RAISE RATES SHOULD BE TESTED AGAINST SCIENTIFIC AND IMPARTIAL STANDARDS. TOO OFTEN, STATE REGULATORS ARE FORCED TO RELY ON INFORMATION SUBMITTED BY INSURERS THEMSELVES IN DECIDING WHETHER THEY OUGHT TO BE ALLOWED TO INCREASE PREMIUMS. THAT'S LIKE LETTING AN ACCUSED WRONGDOER PICK HIS OWN JUDGE AND JURY. STATES NEED SOME OBJECTIVE STANDARDS TO TEST INDUSTRY CLAIMS. IN THIS REGARD, THE FEDERAL GOVERNMENT CAN BE VERY HELPFUL. FEDERAL RISK ASSESSMENT AND MANAGEMENT AUTHORITIES -- SUCH AS THE FEDERAL INSURANCE ADMINISTRATION, THE NATIONAL HURRICANE CENTER, AND THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION -- HAVE DEVELOPED SOUND COMPUTER MODELS TO PREDICT THE SIZE AND FREQUENCY OF DISASTERS. SEVERAL MONTHS AGO, I ASKED THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS TO CONSIDER LOCKING ARMS WITH THE FEDERAL GOVERNMENT TO GIVE THE STATES THE TOOLS THEY NEED. THUS FAR, THE NAIC HAS BEEN UNCOOPERATIVE. I INTEND TO KEEP PUSHING THEM.

LASTLY, MANY PEOPLE -- INCLUDING SEVERAL OF OUR WITNESSES TODAY -- HAVE CALLED ON THE FEDERAL GOVERNMENT TO ESTABLISH A DISASTER INSURANCE AND REINSURANCE PROGRAM. THIS PROPOSAL MERITS CAREFUL CONSIDERATION, WHICH I INTEND TO GIVE IT. HOWEVER, WE MUST CAUTION AGAINST THE VIEW THAT SUCH A PROGRAM IS A CURE-ALL FOR THE COUNTRY'S INSURANCE ILLS. IF WE ARE NOT CAREFUL, IT COULD BECOME A POISON PILL TO THE TAXPAYER, REQUIRING A MASSIVE BAILOUT OF THE INSURANCE INDUSTRY. AS WE ALREADY KNOW FROM THE SAVINGS AND LOAN CRISIS, WE DO NOT WANT TO CREATE A SITUATION WHERE THE INDUSTRY GETS THE GOLD WHILE THE TAXPAYER GETS THE SHAFT, THEN WE WILL HAVE SIMPLY REPLACED ONE PROBLEM WITH ANOTHER, AND SOLVED NOTHING.

TESTIMONY OF SHARON R. CISEWSKI BEFORE THE UNITED STATES HOUSE OF REPRESENTATIVES SUBCOMMITTEE ON CONSUMER CREDIT AND INSURANCE CONCERNING AVAILABILITY OF INSURANCE IN AREAS AT RISK OF NATURAL DISASTERS.

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE, MY NAME IS SHARON CISEWSKI AND I AM THE PRESIDENT OF THE SPACE COAST CONDOMINIUMS ASSOCIATION.

WE CURRENTLY HAVE 180 MEMBERS AND ARE THE ONLY ORGANIZATION IN BREVARD COUNTY AND I BELIEVE, IN CENTRAL FLORIDA, THAT FOSTERS AND PROMOTES THE INTERESTS OF THE RESIDENTIAL CONDOMINIUM UNIT-OWNER ASSOCIATIONS.

THANK YOU FOR THIS OPPORTUNITY TO SPEAK ON THEIR BEHALF.

WHEN ASKED "WHAT IMPACT DID HURRICANE ANDREW HAVE ON YOUR ASSOCIATION'S INSURANCE COVERAGE?", THEIR RESPONSES INCLUDED: MASTER POLICY CANCELLED OR NOT RENEWED, PREMIUMS INCREASED 65%-200% AND DEDUCTIBLES BY AS MUCH AS 500%, FUTURE ORDINANCE OR LAW COVERAGE WILL BE DENIED, WIND & HAIL BUY-BACK POLICY NON-RENEWABLE, REFUSED COVERAGE BECAUSE WATERFRONT PROPERTY AND THAT NEW UNIT-OWNERS WILL NOT BE ELIGIBLE FOR HOME-OWNER'S INSURANCE IF UNITS ARE WITHIN 500-1,000 FEET OF THE WATER.

THESE ARE EXAMPLES OF WHY MANY OF OUR MEMBERS MAY CONSIDER ENTERING THE JOINT UNDERWRITING ASSOCIATION, WHICH THEY AFFECTIONATELY REFER TO AS THE "HIGH RISK POOL".

ONE RESPONSE PROVIDED OUR FIRST INSIGHT INTO THIS "POOL". IT REPORTED THE WINDSTORM PREMIUM INCREASED 100% AND THE COVERAGE WAS CHANGED FROM REPLACEMENT VALUE TO DEPRECIATED VALUE.

THIS ONLY ADDS TO OUR CONCERN ABOUT THIS "POOL" BEING A VIABLE INSURANCE PROVIDER. WE NEED MORE INFORMATION REGARDING PREMIUM RATES, COVERAGE LIMITATIONS, NUMBER OF INSUREES ALLOWED, ABILITY TO CONTINUE IF ANOTHER "ANDREW" STRIKES AND THE POSSIBILITY THAT ONCE IN...NEVER OUT!

THIS COULD BECOME A REALITY BECAUSE INSURERS ARE NOT GOING TO SEEK OUT POLICY-HOLDERS ALL READY DEEMED A HIGH-RISK.

WE ARE ALSO CONCERNED ABOUT THE INSURERS THAT EITHER STAYED OR ENTERED FLORIDA'S INSURANCE MARKET AFTER THE MORATORIUM WAS IMPOSED. WILL THEY BE STABLE ENOUGH TO WITHSTAND ANOTHER "ANDREW" OR PULLOUT, LIKE THEIR PREDECESSORS? WILL A MORATORIUM AGAIN BE NECESSARY TO "STEM THE TIDE"?

WHEN THE PRESENT MORATORIUM IS LIFTED ON NOVEMBER 15TH, WE BELIEVE THE CURRENT CONDITIONS WILL REMAIN STATUS QUO UNTIL AFTER THE FEDERAL AND STATE LEGISLATORS COMPLETE THEIR SPECIAL HEARINGS AND SESSIONS ON RESOLVING INSURANCE PROBLEMS.

WHEREAS, THE CONDOMINIUMS WILL BE DEALING WITH THE PROBLEMS OF HOW TO PAY THESE HIGHER ... PERHAPS DIRE ... INSURANCE PREMIUMS AND REPLACING CANCELLED COVERAGES.

CONDOMINIUM LIVING IS AN ATTRACTIVE LIFE STYLE AND THE CONDOMINIUMS AND THE UNIT-OWNERS PLAY A MAJOR PART IN THE ECONOMIC GROWTH OF THEIR COMMUNITY, COUNTY AND STATE. THEY DESERVE MORE ATTENTION AND WILL USE THE FOLLOWING EXAMPLE TO ILLUSTRATE WHY THEY SHOULD.

BREVARD COUNTY HAS APPROXIMATELY 850 RESIDENTIAL CONDOMINIUMS, CONTAINING APPROXIMATELY 21,000 UNITS WITH AN ESTIMATED MARKET VALUE OF \$1.4 BILLION DOLLARS. IT'S ECONOMY COULD BE RUINED IF THESE PROPERTIES ARE NOT INSUREABLE, BECAUSE PROSPECTIVE BUYERS WILL GO ELSEWHERE TO LIVE AND DEVELOPERS WILL NOT GO FORWARD WITH PLANNED PROJECTS!

MR. CHAIRMAN, THE MEMBERS OF OUR ORGANIZATION BELIEVED THAT CONDOMINIUMS WERE THE FORGOTTEN VICTIMS OF HURRICANE ANDREW. I THANK YOU AND YOUR COMMITTEE FOR DISPELLING THAT BELIEF TODAY.

LOUIS L. SCHLITT

ADDRESS TO INSURANCE HEARING

Melbourne, Florida, November 1, 1993

Consumer Credit and Insurance

Gentlemen.....I am Louis L. Schlitt, CLU, CPCU, ChFC, President of Schlitt Insurance Service, headquarters in Vero Beach, Florida. I have been in the insurance business since 1957 and have been active in the insurance industry since and am representing the voice of our local Independent Insurance Agencies. I been both past president of the Independent Insurance Agent Association of Indian River County and the Estate Planning Council of Indian River County.

Our office services, St. Lucie County, Indian River County and Brevard County and we have offices in Vero Beach and Melbourne.

My remarks will address the Pre-Andrew and Post-Andrew situation. The Pre-Andrew situation was one of a very competitive environment. We write personal lines and commercial lines and did business with strong reliable companies. We represented approximately seven groups of insurance companies insuring property and casualty and five companies providing coverage for mobile homes. We had at least three companies who would insure properties along the ocean front and had no problems insuring any of the maintained classes of construction within our market area. The properties along the ocean were the most difficult to place and yet we were able to replace those coverages because there was an environment where companies could write themselves out of the Windstorm pool assessment being made by the State of Florida by

being encouraged to write those selective risks. We had our companies who aggressively used that facility to write themselves out of the assessments, on hopefully profitable risks.

Most business in Florida is written below the premiums that we charged in 1957, by well under 70 percent. I've seen base rates go down by 50% and these base rates being discounted even another fifty percent for more preferred package policies. The disregard for adequate rates in my mind is a major factor for the problems in the industry. Large national exclusive and direct writing companies wrote much of the business at competitive rates because it was "profitable". They wrote this substantially below the companies who had been in the market for many years, and were not utilizing actuarial projections to include catastrophic losses over a long period.

Post Andrew action: Since Andrew, our agency has had two companies (a total of seven in Florida) go into bankruptcy which caused us to immediately rewrite those policies. This was followed by five companies withdrawing from Florida, and we began to place business with those remaining companies still writing coverage. This started in January 1993 for the biggest part and by the time the Florida Residential Property and Casualty Joint Underwriting Association (FRPCJUA) had been created by the State of Florida, many of those companies had restricted coverage further and the FRPCJUA became a major player.

On June 24th, one of our major companies, due to financial rea-

sons, withdrew from the market place, and canceled all policies. We had to rewrite them all within 60 days. Along with normal writing and replacing of additional business that exceeded our normal level by three times.

This created a stress level in our office and workloads that were almost impossible to accomplish. There were some risks that we could not get covered in time, while waiting for the clients to sign applications and return them fast enough in order to insure them through the FRPCJUA, so in some cases people went without coverage for brief periods of time.

Today we represent three companies who are filed to write Residential property, but one will accept no more than three homeowners applications per month, and another has stopped writing new business altogether. We use the FRPCJUA to rewrite almost 80% of the policies now. We have no companies willing to write along the barrier island or waterfront properties. As a result, we certainly have found the FRPCJUA to be a very helpful measure. However not all coverages are available with the FRPCJUA, especially jewelry coverage and specialty needs.

As Insurance Commissioner Tom Gallagher required insurance companies to continue their policies, this took the pressure off of us having to rewrite approximately three hundred policies per month. Two times more than we would have normally written.

This has brought a balance of sanity back in our office, in view

of the fact that we had a reprieve for a few months.

One of our major carriers has made a decision to dissolve it's company and we are having to replace all of their insurance policies, including auto insurance. There is not a problem in finding a continuous market for auto except Senior Citizens have to pay more!

The commercial rates are a problem now in that many markets have stopped writing new business, particularly on the less superior construction property, and no longer provide for any discount. We now use excess rates markets for commercial property more than ever before.

To give you an idea, we received a quote on a Condominium risk last year priced at \$25,000, the best quote we could come up with was \$75,000, however we were able to go to one of our competitors who we hope will be able to write this risk for somewhere in the neighborhood of \$40,000. However, even with that price, you may well receive complaints from consumers.

In addition, some of the companies who have continued as open markets also reduced our commissions substantially if we elected to keep the coverage with them. In order to provide continuous coverage for our clients we elected to continue that coverage even though it was at a lessor commission. In addition, we had to hire additional employees in order to handle the extra load.

The other aspects of our problems is our income. The commission from the FRPCJUA is 50% less, yet it costs more to process and does not have the efficiency of our other company programs and there's no automatic rating facilities that enable us to efficiently handle it. This creates a financial stress on the independent agency system. It is extremely frustrating trying to build the morale of your organization when your employees are working two to three times as hard for less money.

Fortunately for us, we have offset this loss with additional income from financial services. However, I am sure that there are a number of independent agencies who will be forced out of the business because of the inadequate compensation and the extra work load involved and lost business.

The South Florida market is almost nonexistent. We have no markets that will write new business South of Martin County and I heard that most of the Agencies in South Florida are not able to write new business and their only market is the FRPCJUA.

In addition, some of our consumers have been confused by the fact that they have been canceled, reinstated and we have already replaced their coverage at higher rates.

When the FRPCJUA first came out, it took almost four months for the first policies to be issued. There is no question that some of the consumers have felt like victims, unable to get satisfac-

tion from our agency since we were not able to issue the FRPCJUA policy. The good news is, we are now getting policies issued and I am sure that the complaints will diminish. However, what will happen in January? I now have approximately a hundred policies which have had coverage extended to January 1, and will have to be replaced, and the Insurance Commissioners Moratorium will allow companies to cancel business by then.

CONCERNS OF INSURANCE COMPANIES

Consider this, company earnings are totally wiped out from the time you were in business to the date of Andrew, by one catastrophe and your companies financial strength is questioned! Ask yourself: (1) Why would I expose my company to the liabilities created in Florida where I could lose all my profits ever made, possibly in one storm? (2) Why would I want to risk my companies assets where I could receive assessments from a Windstorm Association, a FRPCJUA, and a guarantee fund. (Florida's guarantee fund provides for assessments to existing insurance carriers due to losses incurred by insolvent carriers.) You are charged to protect company assets and make a profit! Would you pull out of the State of Florida?

I ask now, if it was your decision, what would your decision be?

There is no question in my mind that as soon as the restriction for canceling business in the State of Florida is removed, that some companies will pull out and there will be many, many, more to follow! As you recall, Andrew created about a \$20 billion

insurance loss. Had the storm gone fifty miles North, it is predicted that it could have been easily gone to \$50 or \$80 billion.

In addition, Florida's legislative environment has not been helpful to insurance companies on other lines of business, such as Workmen's Compensation. Many insurance companies feel excessive pressure to leave Florida for liability coverages, due to judicial rulings. Many companies have withdrawn from a commercial standpoint strictly because of the liability and Workers Compensation adverse situation.

You add this on top of the catastrophe exposures of hurricanes! There is no question in my mind that Florida will have a very difficult time maintaining insurance companies willing to risk their capital.

Will this nightmare end? Will it get worse? What are the solutions? No question in my mind that as the legislature meets in Tallahassee, as we talk here today, that it is essential to create a reinsurance program. If not for Florida alone, for the Nation. The fact is that reinsurance in large amounts is not available!

If \$250 million is the maximum reinsurance available, as I have been told, then this is a large gap in what companies actually need. It's like using a finger to stop the overflow of a dam

which is totally inadequate.

Companies will have to recoup some of their losses that they have paid if they stay and elect to compete and make a profit. As a result, prices must rise to cover reinsurance costs and company losses.

CONSOLIDATED INDUSTRY REINSURANCE FUND NEEDED

I believe the government should always stay out of private industry, but there are times when the government should lend a helping hand, and I believe this is a time when the insurance industry and the government can be partners in creating a catastrophe reinsurance system, first for Florida, then on a national basis. I believe that a consolidated insurance industry catastrophe reinsurance program could ultimately be regulated by the industry itself and that government, after creating such a program could eventually depart from the scene. A plan, based upon companies paying this charge and passed on to consumers, a cost, I believe to be only 10-15% of present premiums over the long term.

I would propose a partnership of the industry and government. Similar to the FDIC, but where the insurance industry has more control of this operation and with less control by the government. A super fund to provide the capital when such a catastrophe occurs, to reimburse those companies above certain amounts that could conceivably wipe them out of business. Not a guaranteed profit, but guaranteed survivor for catastrophics! With

this coverage, I've been told by company executives that they would certainly stay in Florida for the property coverage and in my mind it is probably the only way the companies will remain in Florida.

There will be bigger and probably more devastating catastrophes ahead of us. My belief is that the Government should immediately assist in the role of catastrophe reinsurance with industry as it's partner, to provide stability to the insurance companies and promote strength and competitiveness on a long term basis. This would, in essence help all of the insurance industry, consumers and the economic stability of the Nation. Once a reinsurance fund is created for windstorm, it could be extended to flood and earthquake.

LLS:dmr

October 1993



Schlitt Services
INVESTMENTS - INSURANCE

RESUME FOR LOUIS L. SCHLITT

FEBRUARY 1991

Louis L. Schlitt was born in Vero Beach on June 17, 1935 to Mr. and Mrs. John Schlitt. He has four brothers and three sisters all living in Vero Beach.

Educated in Indian River County schools, Louis graduated from Florida State University with a Bachelor of Science in business and a major in real estate and insurance.

Schlitt became a partner and vice-president of Ed Schlitt Agency in 1958 and along with his partners, Ed & Marguerite Schlitt, developed the area's largest insurance and real estate organization. Louis Schlitt directed the insurance and financial services during this period. He obtained the following professional designations: CLU-Certified Life Underwriters, ChFC-Chartered Financial Counseling, CPCU-Chartered Property and Casualty Underwriter. He is currently a candidate for CCIM-Certified Commercial and Industrial Management, and the RESSI-Real Estate, Securities, and Syndication Institute.

Louis was responsible for all financial and budgeting operations as well as developing of the office procedures and policies for the organization as well as implementation of computer and accounting controls.

In 1985, Louis Schlitt and his wife, Kathy, became the one hundred percent owners of Schlitt Insurance Services and Schlitt Investor Services which continued on the insurance and financial services of the prior partnership, while his prior partners continued on in the retail real estate operation.

Louis Schlitt, along with his brother Robert Schlitt and his nephew Robert Schlitt, Jr., has developed Vero's only full service insurance and financial organization including local real estate.

Today, Schlitt employs 30 people, all oriented towards the professional sales and service.

Louis Schlitt is a director on the Board of Citrus Bank, located in the new Citrus Financial Center, a project he is proud to have developed.

Schlitt Insurance Services, Inc.
Schlitt Investor Services, Inc.
Louis Schlitt, Inc.
S.I.S. Partnerships
S.I.S. of Vero Beach, Inc.

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-NASD-

SIX

Real Estate
Broker



TESTIMONY OF
REPRESENTATIVE JOHN F. COSGROVE
CHAIRMAN, INSURANCE COMMITTEE

FLORIDA HOUSE OF
REPRESENTATIVES

NOVEMBER 1, 1993

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**TESTIMONY OF JOHN F. COSGROVE,
 CHAIRMAN, COMMITTEE ON INSURANCE, FLORIDA HOUSE OF
 REPRESENTATIVES**

Three hours from now, the Florida Legislature will convene in Tallahassee for a 5-day special session. Florida's property insurance crisis is one of the special session issues. In fact, later this afternoon, I will be chairing a meeting of the Insurance Committee at which we will consider far-reaching legislation intended to prevent the private-sector property insurance industry from abandoning Florida.

Why am I here, when I will be chairing a committee meeting of possibly historical importance in just a few hours? I am here because I want to give you a legislator's perspective on the crisis, because I want to give you a preview of the strong legislation that is about to be considered here in Florida, and because I want to convince you of the importance of a Federal solution before other states go through the same crisis.

Early on an August morning, five months ago, the face of Florida was changed forever. The savage winds and raw power of Hurricane Andrew cut a path of destruction from Miami through the communities of Coral Gables, Kendall, Perrine, Cutler Ridge, Goulds, and down through Homestead, Florida City, and Key Largo. A new chapter was added to our history in just a few short hours as we survived an event that will shape our lives for months and years to come.

South Florida suffered the damage. But all of Florida felt the pain.

I personally lost my home in the devastation of the Hurricane. Colleen my eight year old, is still scared when it rains against her window or she hears thunder. It's been over a year since Hurricane Andrew ravaged our area and changed our lives forever. Our children certainly will never be the same.

We were in the closet as our home was being ripped apart. My wife's back was against the bulging wall and her feet up against the other nearly falling on us. The house was exploding. Colleen had passed out by this time. Tiffany, my eldest, was in shock. It was horrifying. I know what it feels like to think you are going to die. I prayed my family would be spared.

I have heard many descriptions of Andrew from different people. None made more of an impression than that by Army Chief of Staff, Gen. James Sullivan. "This destruction is far worse than anything in Korea, Beirut, Vietnam, and Desert Storm combined. It would take Six months of 24 hours a day for the same amount of total destruction.

In the hours and days that followed, I walked through those storm ravaged neighborhoods and talked with the people whose homes were left in shambles. Through the medium of television, the nation shared their staggering sense of loss. South Florida was in shock. Never before has a natural disaster brought so much damage and devastation to any part of America. When the winds and rains died down, more than 28,000 homes had been destroyed and another 100,000 suffered damage.

In all, 175,000 Floridians were homeless. Eighty-two thousand businesses were either leveled or in need of repairs. Hospitals and schools were closed, or open only as emergency shelters. All of these homes, schools, places of work and worship, were suddenly gone. For so many people whose lives were shattered, shock and disbelief turned to anger, frustration, and blame. But the faith of people helped them realize that blame does not rebuild anything.

We accepted what happened. We committed to get past this trauma and to do more than just survive it. The people who lost the most said this was not the end, that is, it would be a new beginning. In the days and weeks that followed Hurricane Andrew, we have witnessed a most remarkable triumph of the human spirit.

It started with the stories of everyday heroes and heroines, like Susan Johnson, a nurse from Homestead. I met Susan when I walked into Homestead Hospital in South Dade. Her face and hand had been badly cut by flying shards of glass. She was struck while rescuing an elderly patient who was crying for help as the windows blew into her hospital room. Susan received more than 35 stitches in the emergency room and then went back to work for hours, because many were left to help.

In the aftermath of Andrew, courageous acts were the order of the day. Countless people reached outside their own problems to help others. Through all of the sadness, we saw people helping people regardless of race, religion, or

station in life. Rows of houses became neighborhoods, strangers became friends. There would be only one home with a phone in several blocks, but all in need were welcome there. Crowds became communities.

Florida's businesses rallied to the cause, raising millions of dollars. Hundreds of health care workers and law enforcement officers volunteered to serve in the relief effort. Our own National Guard which performed with such distinction, saw the largest mobilization in its history. Added to this was the response from the hundreds of thousands of Floridians who wanted to help even though they lived far away. The storm did not touch their lives, but the needs of other people did.

It is easy for all of us, as concerned public servants, to be moved by the stories of individual pain and courage in the aftermath of Andrew. The hurricane brought permanent changes to the lives of thousands of families, but it also permanently changed the way we insure our homes and businesses.

Florida enjoyed almost 30 years without the experience of a major hurricane. After insurance companies had paid out over \$15 billion in claims from the hurricane, they knew some mistakes had been made along the way:

It was a mistake when insurance companies aggressively tried to increase their market shares in high-value coastal areas.

It was a mistake when insurance companies assumed that the rigorous South Florida Building Code was being rigorously enforced.

It was a mistake when insurance companies assumed that the costs of rebuilding and recovery after a devastating hurricane would be about the same as those costs in normal conditions.

It was a mistake when insurance companies assumed that there would always be enough reinsurance capacity to protect companies no matter how great their hurricane exposure.

There's plenty of blame to go around. Legislators and regulators could have been more vigilant about making sure that homeowner's insurance policies provide the coverage that consumers need, and about assuring that companies

had the financial ability to keep all of their promises. But in the middle of a crisis, you don't spend much time assigning blame.

"Crisis" is a word that all of us in government hear too often, but it is no exaggeration to say that we have a property insurance crisis here in Florida. Millions of Floridians could tell you that.

It took a while for the insurance companies to count their losses, but by early 1993 they were scared. They realized that Hurricane Andrew wasn't the big one. Computer models project \$53 billion in insured losses--Andrew times three--if a category 5 hurricane were to hit Miami or Ft. Lauderdale. When you consider that this amount--\$53 billion--is about one-third of the combined net worth of all the property and casualty insurance companies in America, when you consider that Florida is not the only state likely to get hit by multi-billion-dollar hurricanes, and when you consider that hurricanes are not the only natural disasters with the potential for \$50 billion or more in insured losses--when you consider all of these things, you begin to understand why insurance companies are so worried.

Changes in the reinsurance marketplace also worry insurance companies. Historically, there was always enough reinsurance money around that insurance companies were not inordinately worried about natural disasters. Today, worldwide reinsurance capacity has contracted to the point where no insurance company can obtain, at any price, more than about \$250 million in catastrophe reinsurance. This is small comfort for a company that lost several billion dollars in Hurricane Andrew.

As you know, the cost of natural disasters has grown enormously in recent years. 1992, of course, was a record year, with over \$23 billion in insured losses from natural disasters in America. It is worth remembering that, even without Andrew, 1992 would have been a record year, edging out 1989, the year of Hurricane Hugo.

The combined net worth of the entire worldwide reinsurance industry is about \$25 billion. Obviously, in the context of a year with \$23 billion in insured losses in the U.S. alone, or in the context of one storm that could cost over \$50 billion, a \$25-billion worldwide reinsurance industry does not have

enough capacity to provide the catastrophic loss protection insurance companies historically expected.

The reinsurance market is improving. Lloyd's seems to be recovering from its serious internal problems, and billions of dollars of additional capacity has been created in Bermuda in less than a year. But there is still a need to create more capacity, a need that the private sector simply cannot handle on its own.

Without new ways of allowing insurance companies to manage their catastrophic exposures, companies face a frightening choice: they can reduce their solvency or they can drop policyholders. Either choice creates responsibilities for governments.

As a direct result of Hurricane Andrew, eight small insurance companies--seven based in Florida, one based outside of Florida--became insolvent. Although these were small companies, their losses overwhelmed the Florida Insurance Guaranty Association, the entity created by state law to pay claims under policies issued by insurers that become insolvent. Ultimately, the Legislature met in special session to authorize approximately \$500 million in revenue bonds to cover claims against these 8 small insurers. Other insurance companies which were subsidiaries of some of the country's largest insurers were also rendered insolvent by the hurricane, but were bailed out by massive capital infusions from their parent companies. If Andrew caused half a billion dollars of insolvencies, can anyone doubt that the big one, the \$50 billion storm, would cause many billions of dollars of insolvencies? Is it an exaggeration to say that the big one could wipe out the entire property insurance industry?

Insurance companies believe that Florida must do something to reduce their exposure to hurricane losses, or they will do it themselves by dropping policyholders in the most hurricane-prone areas. We were faced last spring with the threat that some 844,000 policies would be dropped by companies. Although we were never completely confident about that number, the threat was sufficient for the Legislature to enact a 6-month moratorium on cancellations and nonrenewals. The moratorium expires in two weeks.

We know what we cannot do. We cannot, as a state, take on the unlimited liability of insurance companies. We cannot, as a state, permanently

force insurance companies to write business against their will. We cannot, as a state, force insurance companies to choose between leaving the state and risking insolvency.

There is one more thing that we cannot do: we cannot create alternatives to the voluntary insurance market that add to the pressures on companies to leave the state. Last December, the Florida Legislature created the Residential Property and Casualty Joint Underwriting Association as an insurer of last resort for property owners who could not find coverage in the voluntary market. As with other joint underwriting associations, insurance companies are responsible for covering any deficits. This joint underwriting association already insures over 200,000 properties, adding policies at the rate of about 1,000 a day. If companies carry out their plans to drop hundreds of thousands of policyholders, the JUA will grow still further, possibly becoming the largest insurer in the state. If it were to run a deficit, as it almost certainly would after even a minor hurricane in South Florida, the insurance companies left in the state would be assessed to provide the funds to cover the deficit. With a potential for a multi-billion-dollar deficit, the JUA, created as a response to a shrinking private market for insurance, could greatly increase the pressure on companies to leave the state. That, in turn, would lead to a bigger JUA, with bigger assessment potential for the remaining companies, which, in turn, would further increase the pressure on companies to leave. This is a spiral we must avoid.

In this new world of limited options, we think we may have found a way out. This afternoon, the Florida House Insurance Committee will take up a package of legislation (see attached analyses and legislation) that will, I hope, create the environment in Florida that will allow insurance companies to profitably write the property insurance coverage that we, as individuals and businesses, need, and that is essential to the state's economy. Our legislation is also meant to make sure that companies provide the types of coverage that people need and to make sure that companies can keep those promises.

The key to our plan is the creation of the Florida Hurricane Catastrophe Fund, a state agency that would provide reimbursement to all insurers for a portion of their hurricane losses. The fund would take in from each insurer an actuarially-determined premium for the reimbursement to be provided, and would be bound by contract to provide the promised level of reimbursement, but

no more than what the fund has and what it can borrow through revenue bonds. A taxpayer funded bailout of the insurance industry was never a possibility.

There have been other catastrophe fund proposals. Various plans that were unacceptable or that provided only illusory relief were suggested to the Legislature, and to the Governor's Study Commission on Property Insurance and Reinsurance, on which I served as co-chairman. After almost a year of debate and discussion we finally have a plan that, according to leading insurance companies, will have a substantial, dramatic, and material effect on their plans to drop policyholders. Our package also provides some needed reforms for the joint underwriting association, corrects many consumer problems with property insurance coverage that came to light after Andrew, and provides additional safeguards to protect insurance company solvency.

If the House Insurance package is passed this week, it will show one way to provide real relief to insurers and real protection to consumers without raising taxes. Florida is a large enough state that we can have some confidence that this plan will work as a single-state fund. But I ask you to think about how much better it would be if we had a Federal natural disaster insurance fund. It's a basic principle of insurance that as you spread your risks more broadly, you increase your ability to remain solvent while meeting all of your obligations. A plan that provided partial reimbursement for losses from natural disasters, wherever in the nation they occur, would necessarily be more reliable than a single-state plan. And such a plan would mean that no other state would ever go through the property insurance crisis that we've been living with in Florida for more than a year.

I am not here to speak in favor of any particular Federal catastrophe fund plan. I know, all too well, from a year's work towards a Florida catastrophe fund that preparing the legislation requires attention to countless details. Any time you try to correct imperfections in a free market, you must be exceptionally careful. But I am convinced that the best solution for Florida and for America is some form of Federal catastrophe fund. I can assure you, legislator-to-legislator, that crafting the right plan will be one of the most difficult tasks of your legislative careers. And I can assure you, as a legislator and as a citizen whose home was destroyed by Hurricane Andrew, that creating the right Federal catastrophe fund plan is worth all the effort it takes.

HON. JOHN F. COSGROVE

FLORIDA HURRICANE AND
CATASTROPHE FUND

LEGISLATION AND LEGISLATIVE
ANALYSIS/ECONOMIC IMPACT
STATEMENT

HB 31 C

DATE October 29, 1993

HOUSE OF REPRESENTATIVES
COMMITTEE ON
INSURANCE
BILL ANALYSIS & ECONOMIC IMPACT STATEMENT

BILL # HB 31-C

RELATING TO Florida Hurricane Catastrophe Fund

SPONSOR(S) Representative Cosgrove

STATUTE(S) AFFECTED Section 215.555 (created)

COMPANION BILL(S):

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) INSURANCE
- (2)
- (3)
- (4)
- (5)

I. SUMMARY:

The 6-month moratorium on cancellation or nonrenewal of homeowner's and similar insurance policies, enacted at the May Special Session, will stand repealed on November 14. Insurers' plans to reduce their exposure to hurricane losses by cancelling or nonrenewing over 700,000 property insurance policies in Florida, which prompted enactment of the moratorium, remain in place. In the absence of legislative action, insurers are expected to begin implementing these plans as soon as the moratorium expires.

This bill substantially eliminates insurers' need to reduce exposure by cancelling or nonrenewing policies. It creates a state trust fund, under the management and control of the State Board of Administration, that would reimburse insurers for a portion of their losses from major hurricanes. The plan is funded by insurers, who would pay an actuarially determined premium into the fund for the reimbursement provided by the fund. Premium revenues would be maintained as surplus, and would be available for bonding as the need arises. The fund would, by contract, be obligated to reimburse an insurer for 75 percent of that portion of the insurer's hurricane losses that exceeds two times the property insurance premiums collected by the insurer. The fund would be required to bond future premium revenues for up to 15 years if necessary to pay its obligations under the contracts, and if this revenue stream did not produce enough money, emergency annual assessments of 2% of premium would be levied on all property and casualty insurers except for workers' compensation insurers. However, the fund's obligation under the contracts would be absolutely limited to the moneys in the fund and amounts that the fund can raise through revenue bonds.

The fund is expected to significantly reduce insurers' exposure to catastrophic hurricane losses, which should enable insurers to remain solvent while renewing most of the policies now scheduled to be nonrenewed. The fund is also expected to increase the likelihood that property owners' claims will be fully paid in the event of a hurricane.

It is likely that fund revenues would be found exempt from federal income taxation, either by virtue of the constitutional doctrine of intergovernmental tax immunity, or as income derived from the exercise of any essential governmental function and accruing to a state under section 115 of the Internal Revenue Code.

STANDARD FORM 11/90

STORAGE NAME h0031-c in
 DATE October 29, 1993
 PAGE 2

II. SUBSTANTIVE ANALYSIS

A. PRESENT SITUATION

Hurricane Andrew created a crisis in the property insurance market in Florida. In the May, 1993, Special Session, the Legislature enacted a 6-month moratorium on cancellations or nonrenewals of personal lines residential property insurance (Ch. 93-401, HB 89-B). The moratorium provision will stand repealed on November 14, 1993. Although the moratorium prevented the cancellation or nonrenewal of up to 844,000 policies, the market remains unstable, and, in the absence of Legislative action, insurers are expected to implement plans for cancellation and nonrenewal of large numbers of policies.

In the aftermath of the hurricane, many insurance companies determined that, in order to maintain their solvency, they must reduce their potential future losses from hurricanes in Florida. Several reasons have been offered for the decision to attempt to reduce exposure:

1. Unexpectedly high cost of hurricane losses. Actual losses from Hurricane Andrew were significantly higher than the losses most companies assumed would result from a hurricane of Andrew's severity. Pre-Andrew assumptions were flawed because companies: assumed buildings would be able to withstand higher winds than they could actually withstand; did not take into consideration the cost increases in construction material and labor that followed the storm; did not anticipate the lengthy delays in reconstruction that also followed the storm; and failed to keep track of their geographic concentrations of property insurance risks.
2. Reinsurance market changes. The ability of the worldwide reinsurance industry to make coverage available for catastrophes ("reinsurance capacity") has rapidly contracted in recent years. The shrinkage of reinsurance capacity is partly attributable to the increasing costs of natural disasters. Countrywide insured losses from natural disasters grew from an average of \$1.6 billion per year in the years 1982-1988 to an average of \$9.5 billion in the years 1989-1992. Even without Hurricane Andrew, 1992 would have been a record year for losses from natural disasters, with approximately \$400 million more in losses than 1989, the year of Hurricane Hugo. The reinsurance industry has sustained significant underwriting losses in recent years because of the growing cost of catastrophes, and the flight of capital from reinsurers as a result of these losses has further depleted reinsurance capacity.

The worldwide surplus of the reinsurance industry dropped from \$26.7 billion in 1991 to \$11.7 billion in 1992. This reduction of capital is primarily attributable to Hurricane Andrew losses, major losses at Lloyd's, and the recession in Europe and Japan. The demand for catastrophic reinsurance has generated new entries into the field, primarily Bermuda-based companies, and Lloyd's is recovering, but the question of how much capacity the reinsurance industry is willing to commit to Florida remains open.

A sophisticated computer model has projected that Florida's average annual insured loss from hurricanes is approximately \$1.5 billion. By these calculations, Florida represents 53% of the countrywide hurricane risk.* The same model projects that a category 5 hurricane (the last category 5 hurricane was Camille in

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1989) striking Miami or Ft. Lauderdale would result in insured losses of over \$50 billion. There is not enough reinsurance capacity in the world to cover losses of that magnitude.

These conditions have sharply reduced the amount of catastrophic reinsurance coverage that is available to an insurer. According to a leading reinsurance intermediary, the most catastrophic coverage an insurer could obtain for 1993 at any price was under \$175 million, down from over \$250 million in 1992. Growth in Bermuda reinsurers is projected to increase the maximum available to \$200 million for 1994, but there were at least 11 insurers that sustained over \$200 million in losses from Hurricane Andrew, including 3 insurers with over \$1 billion in losses.

3. Residual market assessment liability. The Residential Property and Casualty Joint Underwriting Association (RPCJUA), created in the December, 1992, Special Session, now insures over 210,000 homeowners. Approximately 75% of RPCJUA insureds are located in Dade, Broward, and Palm Beach Counties. The potential for unlimited assessments to fund deficits in the RPCJUA is another factor frequently cited as a reason why insurers are attempting to reduce their Florida exposures. For more information on this issue, please consult the analysis of HB 33-C.

According to Department of Insurance estimates, the number of policies to be cancelled or nonrenewed is 844,000. A survey by committee staff of the 39 insurers included in the department's total indicates that the number of planned nonrenewals is at least 100,000 lower than the department estimate. However, this lower amount still represents a significant danger to millions of Floridians and to the state's economy.

The number of contemplated nonrenewals would increase the number of insureds in the RPCJUA to approximately 1 million. A quadrupling of the population of the RPCJUA would greatly increase the potential assessment liabilities of the insurers that remain in Florida, and the pressure on the remaining insurers to leave would increase. This could represent the beginning of a cycle where RPCJUA growth forces insurers out of the state, leading to further RPCJUA growth and still further pressure on insurers to leave the state. As more insurers leave the state, the assessment base of the RPCJUA would decline, diminishing the ability of the RPCJUA to pay its claims and increasing the likelihood of large RPCJUA assessments. If the cycle were allowed to spin out of control, the RPCJUA could become the sole insurer of residential property in at least some areas of the state, with little or no ability to pay catastrophic claims.

The continued existence of a private sector property insurance industry with the ability to pay claims from hurricanes is essential to the Florida economy. Mortgages require reliable property insurance; the unavailability of reliable property insurance would therefore make real estate transactions virtually impossible, impacting the construction, real estate, banking, and other industries, as well as countless individuals.

B. EFFECT OF PROPOSED CHANGES:

See the Section-by-Section Analysis, below.

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C SECTION-BY-SECTION ANALYSIS

Section 1 creates s. 215.555, establishing the Florida Hurricane Catastrophe Fund as a state trust fund to provide reimbursement to insurers for a portion of their losses from major hurricanes.

Subsection (1), Findings and Purpose Subsection (1) contains legislative findings and declarations. The findings establish that there is a compelling state interest in maintaining a viable private sector insurance market in Florida, and that state actions to maintain such a market are valid exercises of the police power. The bill finds that many insurers have decided to reduce their catastrophic exposure in Florida to protect their solvency and in response to contractions in the worldwide reinsurance market. The bill declares the inability of the private sector insurance and reinsurance markets to maintain sufficient capacity in Florida to be a danger to the state's economy and the public health, safety, and welfare, and finds that state action to correct for this inability of the private sector is a valid and necessary governmental function.

The findings also note that state action is necessary to protect the public from the inability or unwillingness of many property insurers to maintain surplus, reserves, and reinsurance in amounts sufficient to pay all claims in the event of a catastrophe, and that a state program to provide reimbursement will create enough additional insurance capacity to remedy the current dangers to the economy and the public health, safety, and welfare.

This subsection also includes a finding to the effect that exemption from federal taxation is necessary to the functioning of a program to increase insurance capacity, and that the program should therefore be structured as a state trust fund under the direction and control of the State Board of Administration (the Governor, Treasurer, and Comptroller). The subsection states legislative intent that the trust fund operate exclusively for the purpose of protecting and advancing the state's interest in maintaining insurance capacity.

Subsection (2), Definitions This subsection defines the following terms for use in the act:

Actuarially indicated The bill requires insurers to pay to the fund an "actuarially indicated" premium for the reimbursement to be provided by the fund. "Actuarially indicated" premium is defined to be an amount determined, using actuarial principles, to be adequate, but not excessive, to pay current and future obligations of the fund (including additional amounts if needed to retire revenue bonds issued under subsection (6)), and to reflect each insurer's relative exposure to hurricane losses.

Covered event The fund provides reimbursement only with respect "covered events." A "covered event" is a hurricane that makes landfall in Florida (or a number of hurricanes that all make landfall in Florida in one calendar year) that causes an insurer to sustain losses that exceed 2 times the insurer's gross written premium for the prior year for covered policies.

Covered policy The losses used to calculate the amount of reimbursement due are losses from "covered policies." A "covered policy" is any direct policy

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(i.e., excluding reinsurance agreements) covering a residential structure or its contents issued by an authorized insurer (including any joint underwriting association). Specific types of policies included in this definition, without limitation, are homeowners, mobile home owners, farm owners, condominium association, condominium unit owners, and commercial multi-peril policies.

Losses "Losses" is defined to include both direct incurred losses and loss adjustment expenses.

Subsection (3), Trust Fund Created This subsection creates the Florida Hurricane Catastrophe Fund within the State Treasury as a state trust fund under the management and control of the State Board of Administration. The board is authorized to adopt rules to implement the section. The trust fund is subject to laws relating to trust funds generally.

The use of moneys in the trust fund is limited to the following: payment of obligations of the fund arising out of reimbursement contracts, payment of debts (including revenue bonds), payment of the costs of mitigation programs (see the summary of subsection (7), below), costs of procuring reinsurance, and costs of administration of the fund.

Subsection (4), Reimbursement Contracts This subsection requires the fund to enter into a reimbursement contract with each insurer writing covered policies in Florida. Each such insurer is required, as a condition of doing business in Florida, to enter into the reimbursement contract with the fund.

The reimbursement contract must include a promise by the fund to reimburse the insurer for 75 percent of that portion of its losses from covered events that exceeds 2 times the insurer's gross direct written premium from covered policies for the prior year. The contract must contain a provision for coordination with other reinsurance paid or payable to the insurer, to assure that the fund supplements, but does not duplicate, other reinsurance recoveries. Any reinsurance paid or payable for losses not covered by the fund does not reduce the insurer's recovery from the fund.

The contract is also required to provide that the obligation of the fund with respect to all reimbursement contracts covering a particular year cannot exceed the amount of moneys in the fund together with the maximum amount the fund is able to borrow through revenue bonds. The fund is required to annually notify insurers of the fund's anticipated borrowing capacity for the next year (this notice should enable insurers to procure reinsurance to cover losses that exceed the fund's borrowing capacity).

On April 1 of each year, each insurer is required to report to the fund its losses from hurricanes in the prior year; the fund may also require preliminary loss reports before April 1. As soon as practicable after receiving the loss reports, the fund will calculate the amount of reimbursement owed to each insurer. If the fund determines that the moneys in the fund and the moneys the fund is able to raise through revenue bonds are not sufficient to pay reimbursement at the promised level (i.e., 75% of losses in excess of 2 time gross written premium for the prior year), the fund is required to establish the reimbursement percentage at the highest level that can be supported by the fund's assets and borrowing capacity.

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If an insurer demonstrates to the fund that a covered event has occurred and the immediate receipt of moneys from the fund (without waiting for calculation of reimbursement percentage levels as described above) is likely to prevent the insurer from becoming insolvent, the fund is required to make a loan to the insurer secured by future reimbursements. The fund is directed to loan the insurer, at market interest rates, the amounts needed to maintain the insurer's solvency, up to 50 percent of the estimated reimbursement owed to the insurer. When reimbursement is paid to all insurers for that year, the amount of the loan and interest will be deducted from the insurer's reimbursement.

Subsection (5), Reimbursement Premiums Under this subsection, the reimbursement contract must require the insurer to annually pay to the fund an actuarially indicated premium for the reimbursement provided under the contract.

The board is directed to select an independent consultant to develop a formula for determining the actuarially indicated premium. The formula must specify, for each zip code, the amount of premium the insurer must pay for each \$1,000 of insured value under its policies in that zip code. A unanimous vote of the board is required for approval of the formula, which may be revised at any time under these procedures.

Each insurer is required to annually notify the fund of its insured values under covered policies by zip code. The fund calculates the amount of premium due from the insurer based on these reports and the formula referred to above. Premiums are to be paid according to a periodic payment plan specified in the contract.

Premiums paid to the fund must be treated as premium for approved reinsurance for all accounting and regulatory purposes. This provision recognizes that reimbursement from the fund is the functional equivalent of reinsurance.

This subsection requires each insurer to make an advance premium payment of \$1,000 by January 1, 1994, to be collected by the Department of Insurance. The purpose of this advance payment is to provide startup moneys for administration of the fund.

Subsection (6), Revenue Bonds This subsection requires the fund to enter into agreements with local governments for the issuance of revenue bonds for the benefit of the fund after a hurricane occurs and the board determines that the moneys in the fund are insufficient to pay reimbursement at the promised levels. All future fund revenues, or a lesser portion sufficient to raise the money needed to pay reimbursement at the promised levels, must be pledged to retire the bonds. The maximum term of the bonds is 15 years. The fund may also enter into bonding agreements with local governments without the occurrence of a hurricane if that action would maximize the fund's ability to meet future obligations.

This subsection authorizes the governing body of a unit of local government to issue revenue bonds for the benefit of the fund. The issuance of bonds would be for the public purpose of assuring that policyholders within the locality are able to recover under property insurance policies after a covered event. The bonds must be validated under chapter 75. This process is similar to the process adopted for issuance of local government revenue bonds for the benefit of the Florida

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Insurance Guaranty Association (FIGA) in the December, 1992, Special Session except that the FIGA bonds were not required to be validated.

When the board determines that the revenues from reimbursement premiums are not sufficient to fund bonds to pay reimbursement at the promised levels, the board is required to direct the Department of Insurance to levy an emergency assessment on each property and casualty insurer. The amount of the emergency assessment would be 2 percent of the insurer's gross direct written premium for the prior year from all Florida property and casualty business other than workers' compensation (this would include non-property insurance coverages, such as liability insurance and motor vehicle insurance). The emergency assessments continue annually until the bonds for which they were levied are retired. Only one emergency assessment may be in effect at any time. An insurer's rate filing that reflects only the impact of the emergency assessments is automatically deemed approved.

Subsection (7), Additional Powers and Duties The fund is authorized to procure reinsurance and to borrow from market sources at prevailing interest rates. In addition, if no covered events occurred in the prior year, the fund may use up to 2 percent of its premium collections from the prior year to fund grants to local governments, state agencies, and nonprofit charitable organizations to support programs to mitigate potential hurricane losses.

Subsection (8), Advisory Council The board is directed to appoint a 9-member advisory council to provide information and advice in connection with the board's duties under the act. The advisory council will consist of an actuary, a meteorologist, an engineer, a representative of insurers, a representative of insurance agents, a representative of reinsurers, and three consumers who will represent other affected professions and industries. Members of the advisory council serve at the pleasure of the board and are eligible for per diem and travel expenses.

Subsection (9), Applicability of Section 19, Article III of the State Constitution This subsection provides that the fund is a "trust fund established for bond covenants, indentures, or resolutions" within the meaning of section 19(f)(3), Article III, State Constitution. The cited paragraph provides that trust funds established for those purposes are not subject to the 4-year sunset requirement for other trust funds under section 19(f)(2) of Article III.

Subsection (10), Violations This subsection provides that a violation of the act constitutes a violation of the Insurance Code.

Subsection (11), Federal or Multistate Catastrophic Funds This subsection provides that if a federal or multistate catastrophic fund is created for purposes similar to the purposes of the Florida Hurricane Catastrophe Fund, the board must make recommendations to the Legislature for coordination with the federal or multistate fund, for termination of the Florida fund, or other appropriate action.

Section 2 exempts the Florida Hurricane Catastrophe Fund from s. 215.20(1), which imposes a 7 percent service charge, to be deposited in General Revenue, on all trust fund revenues.

Section 3 provides that the act takes effect upon becoming a law.

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III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS

1. Non-recurring Effects:

None.

2. Recurring Effects:

Revenues: Each year the fund would collect an amount that is, over time, sufficient to pay the losses of the fund ("actually indicated premium"). The generally accepted estimate of Florida's average annual expected loss from all hurricanes is \$1.5 billion (Applied Insurance Research, December, 1992). Actuaries have estimated that the losses that would be reimbursed by the fund constitute approximately one-third of the total hurricane losses; based on this estimate, revenue collections by the fund would be approximately \$500 million a year.

Expenditures: The State Board of Administration's costs of administering the act are unknown at this time. All costs of administration are to be paid out of the premium revenues of the fund.

3. Long Run Effects Other Than Normal Growth:

The fund is required to enter into agreements with local governments for the issuance for the benefit of the fund of revenue bonds pledging future fund revenues if the moneys in the fund are not sufficient to pay the fund's obligations under reimbursement contracts. The fund is also allowed to enter into these agreements in the absence of a hurricane if the board determines that such action would maximize the fund's ability to meet future obligations. See Fiscal Comments, below, for examples.

4. Total Revenues and Expenditures:

See above.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

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3. Long Run Effects Other Than Normal Growth

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

The fund will charge each property insurer the actuarially indicated premium, based on each insurer's relative exposure to hurricane losses, for the coverage provided by the fund (including an advance payment of \$1,000 from each insurer to defray startup costs).

Premium rates charged by insurers are calculated based on noncatastrophic losses, and a percentage factor for catastrophic losses (known as the "catastrophic load") is added to the noncatastrophic rate. Payments to the fund, in effect, transfer some or all of the catastrophic load to the fund. If current catastrophic loads are actuarially sound, the payment of actuarially sound premiums to the fund should have no impact on premium rates paid by policyholders; however, if current catastrophic loads are not actuarially sound, the payment of actuarially sound premiums to the fund could create upward pressure on premium rates paid by policyholders.

2. Direct Private Sector Benefits:

The fund will provide reimbursement for a portion of insurers' covered losses from hurricanes; this significantly reduces insurers' exposure to hurricane losses. The reduction in exposure is expected to substantially reduce the number of policies to be nonrenewed and remedy the dangers to the state's economy described under "Present Situation," above.

In addition, policyholders will benefit from increased likelihood that insurers will be able to maintain adequate catastrophic reserves and pay policyholders' catastrophic claims. Inadequate reserving has been found to be a primary cause of insolvencies; mandatory payments to the fund, in effect, are a form of forced reserving.

3. Effects on Competition, Private Enterprise and Employment Markets:

In effect, the fund significantly increases worldwide reinsurance capacity. The increase in capacity makes catastrophic reinsurance less scarce, and could therefore reduce the amount that reinsurers are able to charge for private sector reinsurance. The bill contemplates that insurers would continue to procure private sector reinsurance, and requires that such reinsurance be coordinated with the reimbursement provided by the fund.

D. FISCAL COMMENTS:

Examples:

1. \$3 billion hurricane. If the state sustained \$3 billion in insured hurricane losses during the first fund year, it could be assumed that the fund would not be triggered.

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with respect to all insurers, since 2 times the statewide total premium for covered policies is approximately \$5 billion. If the fund's obligation with respect to insurers with claims for reimbursement was under \$500 million (estimated first year fund revenues), the fund would pay its obligation entirely from first-year premium revenues, if the obligations exceeded \$500 million, the fund would pledge a portion of future premium as revenues to retire bonds, and would use the bond proceeds to meet its reimbursement obligations.

2. \$10 billion hurricane. If the state sustained \$10 billion in insured losses (more than Hurricane Hugo, less than Hurricane Andrew) during the first fund year, it could be assumed that virtually all insurers would be entitled to reimbursement. In the aggregate, losses in excess of two times gross premium would be \$5 billion; the fund would be responsible for 75 percent of this amount, or \$3.75 billion. The \$500 million collected in premium revenues would be used to pay part of this obligation, and the remaining \$3.25 billion would be raised through revenue bonds.

3. Another Hurricane Andrew. Assuming \$15 billion in insured losses in the first fund year, the fund would be responsible for \$7.5 billion, or 75 percent of \$10 billion. After using \$500 million in premium revenues, the fund would be required to raise \$7 billion through bonding. The \$500 million a year revenue stream of the fund would be likely to raise this amount if 15-year bonds were issued, but if \$500 million a year was not a sufficient revenue stream, the fund could raise an additional \$200 million a year for the duration of the bonds through the emergency assessment on property and casualty insurers (except workers' compensation) in the amount of 2 percent of gross written premium.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

Not applicable.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

Not applicable.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

Not applicable.

V. COMMENTS:

1. Statewide property insurance premiums. In 1991, total statewide gross written premium for property insurance was approximately \$2.2 billion, of which approximately \$1 billion was attributable to homeowner's coverage and approximately \$885 million was attributable to commercial multi-peril policies. Department of Insurance projections put the total at \$2.7 billion for 1993, rising to \$3.5 billion in 1998 (but these projections do not reflect recently granted and pending rate increases).

2. Federal tax issues It is likely that the fund would be found to be exempt from federal income taxation. Under the constitutional doctrine of intergovernmental tax immunity, states and political subdivisions (governmental units that exercise sovereign powers) are exempt from federal taxation. See Michigan v. U.S., 802 F Supp 120 (W.D. Mich., 1992), South Carolina v. U.S., 485 U.S. 505, 99 L.Ed2d 592, 108 S.Ct. 1355 (1988).

If it were determined that the state did not qualify for intergovernmental tax immunity with respect to the fund, the fund would look to section 115 of the Internal Revenue Code for its exemption. Section 115 exempts "income derived from ... the exercise of any essential governmental function and accruing to a State . . ." The interpretation of section 115 is governed by 3 primary factors: the degree to which the entity is an integral part of the state government, including state control over funds; the degree to which the entity performs an essential governmental function; and the entity to which moneys revert upon dissolution of the entity. In this case, the fund is an integral part of state government, under the direct control of 3 statewide elected officials; moneys in the fund may be used only for the purpose of protecting and advancing the state's interest in maintaining a stable private sector property insurance market; and the fund is created in the State Treasury, which would retain the moneys in the event of dissolution. (It should be noted that the bill does not provide specifically for termination of the fund; further legislative action would be required to terminate the fund.)

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

HON. JOHN F. COSGROVE

SUMMARY OF HURRICANE CATASTROPHE FUND BILL (HB 31-C)

Section 1 creates the Florida Hurricane Catastrophe Fund as a state trust fund to provide reimbursement to insurers for a portion of their losses from major hurricanes.

Subsection (1), Findings and Purpose Subsection (1) contains legislative findings and declarations. The findings establish that there is a compelling state interest in maintaining a viable private sector insurance market in Florida, and that state actions to maintain such a market are valid exercises of the police power. The bill finds that many insurers have decided to reduce their catastrophic exposure in Florida to protect their solvency and in response to contractions in the worldwide reinsurance market. The bill declares the inability of the private sector insurance and reinsurance markets to maintain sufficient capacity in Florida to be a danger to the state's economy and the public health, safety, and welfare, and finds that state action to correct for this inability of the private sector is a valid and necessary governmental function.

The findings also note that state action is necessary to protect the public from the inability or unwillingness of many property insurers to maintain surplus, reserves, and reinsurance in amounts sufficient to pay all claims in the event of a catastrophe, and that a state program to provide reimbursement will create enough additional insurance capacity to remedy the current dangers to the economy and the public health, safety, and welfare.

This subsection also includes a finding to the effect that exemption from federal taxation is necessary to the functioning of a program to increase insurance capacity, and that the program should therefore be structured as a state trust fund under the direction and control of the State Board of Administration (the Governor, Treasurer, and Comptroller). The subsection states legislative intent that the trust fund operate exclusively for the purpose of protecting and advancing the state's interest in maintaining insurance capacity.

Subsection (2), Definitions This subsection defines the following terms for use in the act:

Actuarially indicated The bill requires insurers to pay to the fund an "actuarially indicated" premium for the reimbursement to be provided by the fund. "Actuarially indicated" premium is defined to be an amount determined, using actuarial principles, to be adequate, but not excessive, to pay current and future obligations of the fund (including additional amounts if needed to retire revenue bonds issued under subsection (6)), and to reflect each insurer's relative exposure to hurricane losses.

Covered event The fund provides reimbursement only with respect "covered events." A "covered event" is a hurricane that makes landfall in Florida (or a number of hurricanes that all make landfall in Florida in one calendar year) that

causes an insurer to sustain losses that exceed 2 times the insurer's gross written premium for the prior year for covered policies.

Covered policy The losses used to calculate the amount of reimbursement due are losses from "covered policies." A "covered policy" is any direct policy (i.e., excluding reinsurance agreements) covering a residential structure or its contents issued by an authorized insurer (including any joint underwriting association). Specific types of policies included in this definition, without limitation, are homeowner's, mobile home owner's, farm owner's, condominium association, condominium unit owner's, and commercial multi-peril policies.

Losses "Losses" is defined to include both direct incurred losses and loss adjustment expenses.

Subsection (3), Trust Fund Created This subsection creates the Florida Hurricane Catastrophe Fund within the State Treasury as a state trust fund under the management and control of the State Board of Administration. The board is authorized to adopt rules to implement the section. The trust fund is subject to laws relating to trust funds generally.

The use of moneys in the trust fund is limited to the following: payment of obligations of the fund arising out of reimbursement contracts, payment of debts (including revenue bonds), payment of the costs of mitigation programs (see the summary of subsection (7), below), costs of procuring reinsurance, and costs of administration of the fund.

Subsection (4), Reimbursement Contracts This subsection requires the fund to enter into a reimbursement contract with each insurer writing covered policies in Florida. Each such insurer is required, as a condition of doing business in Florida, to enter into the reimbursement contract with the fund.

The reimbursement contract must include a promise by the fund to reimburse the insurer for 75 percent of that portion of its losses from covered events that exceeds 2 times the insurer's gross direct written premium from covered policies for the prior year. The contract must contain a provision for coordination with other reinsurance paid or payable to the insurer, to assure that the fund supplements, but does not duplicate, other reinsurance recoveries. Any reinsurance paid or payable for losses not covered by the fund does not reduce the insurer's recovery from the fund.

The contract is also required to provide that the obligation of the fund with respect to all reimbursement contracts covering a particular year cannot exceed the amount of moneys in the fund together with the maximum amount the fund is able to borrow through revenue bonds. The fund is required to annually notify insurers of the fund's anticipated borrowing capacity for the next year (this notice should enable insurers to procure reinsurance to cover losses that exceed the fund's borrowing capacity).

On April 1 of each year, each insurer is required to report to the fund its losses from hurricanes in the prior year; the fund may also require preliminary loss reports before April 1. As soon as practicable after receiving the loss reports, the fund will calculate the amount of reimbursement owed to each insurer. If the fund determines that the moneys in the fund and the moneys the fund is able to raise through revenue bonds are not sufficient to pay reimbursement at the promised level (i.e., 75% of losses in excess of 2 time gross written premium for the prior year), the fund is required to establish the reimbursement percentage at the highest level that can be supported by the fund's assets and borrowing capacity.

If an insurer demonstrates to the fund that a covered event has occurred and that immediate receipt of moneys from the fund (without waiting for calculation of reimbursement percentage levels as described above) is likely to prevent the insurer from becoming insolvent, the fund is required to make a loan to the insurer secured by future reimbursements. The fund is directed to loan the insurer, at market interest rates, the amounts needed to maintain the insurer's solvency, up to 50 percent of the estimated reimbursement owed to the insurer. When reimbursement is paid to all insurers for that year, the amount of the loan and interest will be deducted from the insurer's reimbursement.

Subsection (5), Reimbursement Premiums Under this subsection, the reimbursement contract must require the insurer to annually pay to the fund an actuarially indicated premium for the reimbursement provided under the contract.

The board is directed to select an independent consultant to develop a formula for determining the actuarially indicated premium. The formula must specify, for each zip code, the amount of premium the insurer must pay for each \$1,000 of insured value under its policies in that zip code. A unanimous vote of the board is required for approval of the formula, which may be revised at any time under these procedures.

Each insurer is required to annually notify the fund of its insured values under covered policies by zip code. The fund calculates the amount of premium due from the insurer based on these reports and the formula referred to above. Premiums are to be paid according to a periodic payment plan specified in the contract.

Premiums paid to the fund must be treated as premium for approved reinsurance for all accounting and regulatory purposes. This provision recognizes that reimbursement from the fund is the functional equivalent of reinsurance, and that it is appropriately treated as an expense, since, unlike assessments, the insurer receives something of value (the promise of reimbursement) in exchange for its payment.

This subsection requires each insurer to make an advance premium payment of \$1,000 by January 1, 1994, to be collected by the Department of Insurance. The purpose of this advance payment is to provide startup moneys for administration of the fund.

Subsection (6), Revenue Bonds This subsection requires the fund to enter into agreements with local governments for the issuance of revenue bonds for the benefit of the fund after a hurricane occurs and the board determines that the moneys in the fund are insufficient to pay reimbursement at the promised levels. All future fund revenues, or a lesser portion sufficient to raise the money needed to pay reimbursement at the promised levels, must be pledged to retire the bonds. The maximum term of the bonds is 15 years. The fund may also enter into bonding agreements with local governments without the occurrence of a hurricane if that action would maximize the fund's ability to meet future obligations.

This subsection authorizes the governing body of a unit of local government to issue revenue bonds for the benefit of the fund. The issuance of bonds would be for the public purpose of assuring that policyholders within the locality are able to recover under property insurance policies after a covered event. The bonds must be validated under chapter 75. This process is similar to the process adopted for issuance of local government revenue bonds for the benefit of the Florida Insurance Guaranty Association (FIGA) in the December, 1992, Special Session, except that the FIGA bonds were not required to be validated.

When the board determines that the revenues from reimbursement premiums are not sufficient to fund bonds to pay reimbursement at the promised levels, the board is required to direct the Department of Insurance to levy an emergency assessment on each property and casualty insurer. The amount of the emergency assessment would be 2 percent of the insurer's gross direct written premium for the prior year from all Florida property and casualty business other than workers' compensation (this would include non-property insurance coverages, such as liability insurance and motor vehicle insurance). The emergency assessments continue annually until the bonds for which they were levied are retired. Only one emergency assessment may be in effect at any time. An insurer's rate filing that reflects only the impact of the emergency assessments is automatically deemed approved.

Subsection (7), Additional Powers and Duties The fund is authorized to procure reinsurance and to borrow from market sources at prevailing interest rates. In addition, if no covered events occurred in the prior year, the fund may use up to 2 percent of its premium collections from the prior year to fund grants to local governments, state agencies, and nonprofit charitable organizations to support programs to mitigate potential hurricane losses.

Subsection (8), Advisory Council The board is directed to appoint a 9-member advisory council to provide information and advice in connection with the board's duties under the act. The advisory council will consist of an actuary, a meteorologist, an engineer, a representative of insurers, a representative of insurance agents, a representative of reinsurers, and three consumers who will represent other affected

professions and industries. Members of the advisory council serve at the pleasure of the board and are eligible for per diem and travel expenses.

Subsection (9), Applicability of Section 19, Article III of the State Constitution This subsection provides that the fund is a "trust fund established for bond covenants, indentures, or resolutions" within the meaning of section 19(f)(3), Article III, State Constitution. The cited paragraph provides that trust funds established for those purposes are not subject to the 4-year sunset requirement for other trust funds under section 19(f)(2) of Article III.

Subsection (10), Violations This subsection provides that a violation of the act constitutes a violation of the Insurance Code.

Subsection (11), Federal or Multistate Catastrophic Funds This subsection provides that if a federal or multistate catastrophic fund is created for purposes similar to the purposes of the Florida Hurricane Catastrophe Fund, the board must make recommendations to the Legislature for coordination with the federal or multistate fund, for termination of the Florida fund, or other appropriate action.

Section 2 exempts the Florida Hurricane Catastrophe Fund from s. 215.20(1), which imposes a 7 percent service charge, to be deposited in General Revenue, on all trust fund revenues.

Section 3 provides that the act takes effect upon becoming a law.

HON. JOHN F. COSGROVE

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1	A bill to be entitled	1:btc
2	An act relating to the Florida Hurricane	1.2
3	Catastrophe Fund; creating s. 215.555, F.S.;	1.3
4	providing findings and purpose; providing	
5	definitions; creating the Florida Hurricane	1.4
6	Catastrophe Fund as a trust fund under the	
7	State Board of Administration; specifying uses	1.5
8	of moneys in the fund; specifying applicability	
9	of other laws; requiring the fund and specified	1.6
10	insurers to enter into reimbursement contracts;	
11	specifying obligations of the fund under	1.7
12	reimbursement contracts; requiring reports;	
13	providing for loans; requiring payment of	1.8
14	reimbursement premium; providing for	
15	calculation of reimbursement premium;	
16	specifying accounting and regulatory treatment	1.9
17	of reimbursement premium; requiring advance	
18	payment; providing circumstances for issuance	1.10
19	of revenue bonds on behalf of the fund;	
20	specifying pledged revenues; authorizing units	1.11
21	of local government to issue such bonds;	
22	requiring validation; authorizing emergency	1.12
23	assessments; authorizing the fund to procure	
24	reinsurance; authorizing borrowing by the fund;	1.13
25	authorizing the fund to expend certain moneys	1.14
26	to support programs to mitigate hurricane	
27	losses; providing for appointment of an	1.15
28	advisory council; providing for per diem and	
29	travel expenses; specifying applicability of s.	1.16
30	19, Art. III, State Constitution, to the fund;	1.17
31	providing that violations constitute violations	

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1	of the Insurance Code; providing for	1.19
2	recommendations with respect to federal or	
3	multistate catastrophic funds; providing an	1.20
4	exemption from the deduction required by s.	
5	215.20(1), F.S.; providing an effective date.	1.22
6		
7	Be It Enacted by the Legislature of the State of Florida:	1:enc
8		
9	Section 1. Section 215.555, Florida Statutes, is	1.24
10	created to read:	1.25
11	<u>215.555 Florida Hurricane Catastrophe Fund.--</u>	1.26
12	<u>(1) FINDINGS AND PURPOSE.--The Legislature finds and</u>	1:lus
13	<u>declares as follows:</u>	1.27
14	<u>(a) There is a compelling state interest in</u>	1:lus
15	<u>maintaining a viable and orderly private sector market for</u>	1.28
16	<u>property insurance in this state. To the extent that the</u>	1.29
17	<u>private sector is unable to maintain a viable and orderly</u>	
18	<u>market for property insurance in this state, state actions to</u>	1.30
19	<u>maintain such a viable and orderly market are valid and</u>	1.31
20	<u>necessary exercises of the police power.</u>	
21	<u>(b) As a result of unprecedented levels of</u>	1.32
22	<u>catastrophic insured losses in recent years, and especially as</u>	
23	<u>a result of Hurricane Andrew, numerous insurers have</u>	1.33
24	<u>determined that in order to protect their solvency, it is</u>	
25	<u>necessary for them to reduce their exposure to hurricane</u>	1.34
26	<u>losses. Also as a result of these events, world reinsurance</u>	1.35
27	<u>capacity has significantly contracted, increasing the pressure</u>	1.36
28	<u>on insurers to reduce their catastrophic exposures.</u>	1.37
29	<u>(c) The inability of the private sector insurance and</u>	1:lus
30	<u>reinsurance markets to maintain sufficient capacity to enable</u>	1.38
31	<u>residents of this state to obtain property insurance coverage</u>	1.39

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in the private sector endangers the economy of the state and endangers the public health, safety, and welfare.

Accordingly, state action to correct for this inability of the private sector constitutes a valid and necessary public and governmental purpose.

(d) The insolvencies and financial impairments resulting from Hurricane Andrew demonstrate that many property insurers are unable or unwilling to maintain reserves, surplus, and reinsurance sufficient to enable the insurers to pay all claims in full in the event of a catastrophe. State action is therefore necessary to protect the public from an insurer's unwillingness or inability to maintain sufficient reserves, surplus, and reinsurance.

(e) A state program to provide reimbursement to insurers for a portion of their catastrophic hurricane losses will create additional insurance capacity sufficient to ameliorate the current dangers to the state's economy and to the public health, safety, and welfare.

(f) It is essential to the functioning of a state program to increase insurance capacity that revenues received be exempt from federal taxation. It is therefore the intent of the Legislature that this program be structured as a state trust fund under the direction and control of the State Board of Administration and operate exclusively for the purpose of protecting and advancing the state's interest in maintaining insurance capacity in this state.

(2) DEFINITIONS.--As used in this section:

(a) "Actuarially indicated" means, with respect to premiums paid by insurers for reimbursement provided by the fund, an amount determined according to principles of actuarial science to be adequate, but not excessive, in the

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1	<u>aggregate, to pay current and future obligations and expenses</u>	1.63
2	<u>of the fund, including additional amounts if needed to retire</u>	
3	<u>revenue bonds issued under subsection (6), and determined</u>	1.65
4	<u>according to principles of actuarial science to reflect each</u>	
5	<u>insurer's relative exposure to hurricane losses.</u>	1.66
6	(b) <u>"Covered event" means any hurricane or hurricanes</u>	1.67
7	<u>that make landfall in this state in 1 calendar year and that</u>	1.69
8	<u>cause an insurer to sustain losses in excess of two times that</u>	1.70
9	<u>insurer's gross direct written premium for the prior year from</u>	
10	<u>covered policies.</u>	1.71
11	(c) <u>"Covered policy" means any personal lines or</u>	1:1us
12	<u>commercial property insurance policy covering property in this</u>	1.72
13	<u>state, including, but not limited to, any homeowner's, mobile</u>	1.73
14	<u>home owner's, farm owner's, condominium association,</u>	1.74
15	<u>condominium unit owner's, or commercial multi-peril policy, or</u>	1.75
16	<u>any other policy covering a residential or commercial</u>	
17	<u>structure or its contents issued by any authorized insurer,</u>	1.76
18	<u>including any joint underwriting association. "Covered</u>	1:qq
19	<u>policy" does not include any reinsurance agreement.</u>	
20	(d) <u>"Losses" means direct incurred losses and loss</u>	1.79
21	<u>adjustment expenses.</u>	1.80
22	(3) <u>TRUST FUND CREATED.--There is created within the</u>	1:1us
23	<u>State Treasury the Florida Hurricane Catastrophe Fund as a</u>	1.81
24	<u>trust fund under the management and control of the State Board</u>	1.82
25	<u>of Administration. Moneys in the fund may not be expended,</u>	1.83
26	<u>loaned, or appropriated except to pay obligations of the fund</u>	1.84
27	<u>arising out of reimbursement contracts entered into under</u>	
28	<u>subsection (4), payment of debts including obligations arising</u>	2.1
29	<u>out of revenue bonds issued under subsection (6), costs of the</u>	2.2
30	<u>mitigation program under subsection (7), costs of procuring</u>	2.3
31	<u>reinsurance, and costs of administration of the fund. The</u>	2.4

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1	<u>fund is subject to all provisions of law relating to the</u>	
2	<u>investment or management of state trust funds. The board may</u>	2.6
3	<u>adopt rules to implement this section.</u>	
4	<u>(4) REIMBURSEMENT CONTRACTS.--</u>	2.7
5	<u>(a) The fund shall enter into a contract with each</u>	1:1us
6	<u>insurer writing covered policies in this state to provide to</u>	2.8
7	<u>the insurer the reimbursement described in paragraph (b), in</u>	2.9
8	<u>exchange for the reimbursement premium paid into the fund</u>	
9	<u>under subsection (5). As a condition of doing business in</u>	2.10
10	<u>this state, each such insurer shall enter into such a</u>	
11	<u>contract.</u>	2.11
12	<u>(b) The contract shall contain a promise by the fund</u>	1:1us
13	<u>to reimburse the insurer for 75 percent of its losses from</u>	2.12
14	<u>covered events in excess of two times the insurer's gross</u>	2.13
15	<u>direct written premium from covered policies for the prior</u>	2.14
16	<u>year. The contract shall also provide for coordination with</u>	2.15
17	<u>other reinsurance paid or payable to each insurer so as to</u>	2.16
18	<u>supplement but not duplicate such other reinsurance</u>	
19	<u>recoveries. Other reinsurance paid or payable to an insurer</u>	2.17
20	<u>for losses not covered by the fund shall not reduce the</u>	2.18
21	<u>insurer's recovery from the fund.</u>	
22	<u>(c) The contract shall also provide that the</u>	2.19
23	<u>obligation of the fund with respect to all contracts covering</u>	2.20
24	<u>a particular year shall not exceed the moneys in the fund,</u>	2.21
25	<u>together with the maximum amount that the fund is able to</u>	
26	<u>raise through the issuance of revenue bonds under subsection</u>	2.23
27	<u>(6). The contract shall require the fund to annually notify</u>	2.24
28	<u>insurers of the fund's anticipated borrowing capacity for the</u>	2.25
29	<u>next year.</u>	
30	<u>(d) The contract shall require the insurer to report</u>	2.26
31	<u>to the fund on April 1 of each year its losses from all</u>	

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1	<u>hurricanes for the prior year; the contract may also require</u>	2.27
2	<u>preliminary loss reports prior to that date. The contract</u>	2.28
3	<u>shall require the fund to determine, as soon as practicable</u>	
4	<u>after receiving these reports, the amount of reimbursements</u>	2.29
5	<u>due. If the fund determines that the assets of the fund,</u>	2.30
6	<u>together with the amount that the fund determines that it is</u>	2.31
7	<u>possible to raise through revenue bonds issued under</u>	
8	<u>subsection (6), are insufficient to pay reimbursement to all</u>	2.32
9	<u>insurers at the level promised in the contract, the fund shall</u>	2.33
10	<u>establish the reimbursement level at the highest level for</u>	
11	<u>which such assets and borrowing capacity are sufficient.</u>	2.34
12	<u>(e) The contract shall provide that if an insurer</u>	1:1us
13	<u>demonstrates to the fund that a covered event has occurred</u>	2.35
14	<u>with respect to that insurer, and demonstrates to the fund</u>	2.36
15	<u>that the immediate receipt of moneys from the fund is likely</u>	
16	<u>to prevent the insurer from becoming insolvent, the fund shall</u>	2.38
17	<u>loan the insurer, at market interest rates, the amounts</u>	2.39
18	<u>necessary to maintain the solvency of the insurer, up to 50</u>	2.40
19	<u>percent of the fund's estimate of the reimbursement due the</u>	2.41
20	<u>insurer. The insurer's reimbursement shall be reduced by an</u>	2.42
21	<u>amount equal to the amount of the loan and interest thereon.</u>	2.43
22	<u>(5) REIMBURSEMENT PREMIUMS.--</u>	1:1us
23	<u>(a) Each reimbursement contract shall require the</u>	2.44
24	<u>insurer to annually pay to the fund an actuarially indicated</u>	2.45
25	<u>premium for the reimbursement.</u>	
26	<u>(b) The State Board of Administration shall select an</u>	2.46
27	<u>independent consultant to develop a formula for determining</u>	2.47
28	<u>the actuarially indicated premium to be paid to the fund. The</u>	2.48
29	<u>formula shall specify, for each zip code, the amount of</u>	
30	<u>premium to be paid by an insurer for each \$1,000 of insured</u>	2.49
31	<u>value under covered policies in that zip code. The formula</u>	2.50

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1	<u>must be approved by unanimous vote of the board. The board</u>	2.51
2	<u>may, at any time, revise the formula pursuant to the procedure</u>	
3	<u>provided in this paragraph.</u>	2.52
4	<u>(c) No later than April 1 of each year, each insurer</u>	1:1us
5	<u>shall notify the fund of its insured values under covered</u>	2.53
6	<u>policies by zip code, as of December 31 of the previous year.</u>	2.54
7	<u>On the basis of these reports, the fund shall calculate the</u>	2.55
8	<u>premium due from the insurer, based on the formula adopted</u>	2.56
9	<u>under paragraph (b). The insurer shall pay the required</u>	2.57
10	<u>annual premium pursuant to a periodic payment plan specified</u>	
11	<u>in the contract.</u>	2.58
12	<u>(d) All premiums paid to the fund under reimbursement</u>	1:1us
13	<u>contracts shall be treated as premium for approved reinsurance</u>	2.60
14	<u>for all accounting and regulatory purposes.</u>	2.61
15	<u>(e) In order to provide startup moneys for the</u>	1:1us
16	<u>administration of the fund, each insurer subject to this</u>	2.63
17	<u>section shall pay to the fund an advance premium payment of</u>	
18	<u>\$1,000 no later than January 1, 1994. The Department of</u>	2.65
19	<u>Insurance shall collect the advance premium payments required</u>	
20	<u>by this paragraph on behalf of the board. The insurer shall</u>	2.67
21	<u>receive a credit against future premiums for the advance</u>	
22	<u>payment.</u>	
23	<u>(6) REVENUE BONDS.--</u>	2.68,
24	<u>(a) Upon the occurrence of a hurricane and a</u>	1:1us
25	<u>determination that the moneys in the fund are or will be</u>	2.70
26	<u>insufficient to pay reimbursement at the levels promised in</u>	
27	<u>the reimbursement contracts, the fund shall enter into</u>	2.72
28	<u>agreements with local governments for the issuance of revenue</u>	
29	<u>bonds for the benefit of the fund. The term of the bonds may</u>	2.74
30	<u>not exceed 15 years. The fund shall pledge all future</u>	2.75
31	<u>revenues under subsection (5) and under paragraph (c), or a</u>	

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1	<u>lesser portion of such revenues sufficient to raise moneys in</u>	2.77
2	<u>an amount that will pay reimbursement at the levels promised</u>	
3	<u>in the reimbursement contracts, to the retirement of such</u>	2.78
4	<u>bonds. The fund may also enter into such agreements in the</u>	2.80
5	<u>absence of a hurricane upon a determination that such action</u>	2.81
6	<u>would maximize the ability of the fund to meet future</u>	
7	<u>obligations.</u>	
8	(b) <u>The governing body of any unit of local government</u>	2.82
9	<u>may issue bonds as defined in s. 166.101 from time to time to</u>	2.84
10	<u>fund an assistance program, in conjunction with the Florida</u>	
11	<u>Hurricane Catastrophe Fund, for the purpose of meeting the</u>	3.1
12	<u>reimbursement obligations of the fund. The issuance of such</u>	3.2
13	<u>bonds is for the public purpose of ensuring that policyholders</u>	
14	<u>located within the unit of local government are able to</u>	3.3
15	<u>recover under property insurance policies after a covered</u>	
16	<u>event. Revenue bonds may not be issued until validated</u>	3.5
17	<u>pursuant to the provisions of chapter 75. The unit of local</u>	3.6
18	<u>government shall enter into such contracts with the fund as</u>	
19	<u>are necessary to carry out this section. Any bonds issued</u>	3.8
20	<u>under this section shall be payable from and secured by moneys</u>	
21	<u>received by the fund under subsection (5), and assigned and</u>	3.9
22	<u>pledged to or on behalf of the unit of local government for</u>	3.10
23	<u>the benefit of the holders of such bonds. The funds, credit,</u>	3.11
24	<u>property, and taxing power of the state or of the unit of</u>	
25	<u>local government shall not be pledged for the payment of such</u>	3.12
26	<u>bonds.</u>	
27	(c) <u>If the board determines that the amount of revenue</u>	3.13
28	<u>produced under subsection (5) is insufficient to fund revenue</u>	
29	<u>bonds to pay reimbursement at the levels promised in the</u>	3.14
30	<u>reimbursement contracts, the board shall direct the Department</u>	3.15
31	<u>of Insurance to levy an emergency assessment on each insurer</u>	

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1	<u>writing property and casualty business in this state.</u>	3.16
2	<u>Pursuant to the emergency assessment, each such insurer shall</u>	3.17
3	<u>pay to the fund by July 1 of each year an amount equal to 2</u>	3.18
4	<u>percent of its gross direct written premium for the prior year</u>	
5	<u>from all property and casualty business in this state except</u>	3.19
6	<u>for workers' compensation. The annual assessments under this</u>	3.20
7	<u>paragraph shall continue until the revenue bonds issued with</u>	
8	<u>respect to which the assessment was imposed are retired. An</u>	3.22
9	<u>insurer shall not at any time be subject to more than one</u>	
10	<u>assessment under this paragraph. Within 90 days after the</u>	3.23
11	<u>assessment is levied under this paragraph, each insurer</u>	
12	<u>subject to the assessment shall make a rate filing for all</u>	3.24
13	<u>coverages on which the assessment is based. If the filing</u>	3.25
14	<u>reflects a rate change attributable entirely to the</u>	
15	<u>assessment, the filing shall consist of a certification so</u>	3.26
16	<u>stating and shall be deemed approved when made, subject to the</u>	
17	<u>authority of the Department of Insurance to require actuarial</u>	3.27
18	<u>justification as to the adequacy of any rate at any time.</u>	3.28
19	<u>(7) ADDITIONAL POWERS AND DUTIES.--</u>	3.29
20	<u>(a) The fund may procure reinsurance from reinsurers</u>	1:1us
21	<u>approved under s. 624.610 for the purpose of maximizing the</u>	3.30
22	<u>capacity of the fund.</u>	
23	<u>(b) In addition to borrowing under subsection (6), the</u>	1:1us
24	<u>fund may also borrow from any market sources at prevailing</u>	3.31
25	<u>interest rates.</u>	3.32
26	<u>(c) If no covered events occurred in the prior</u>	1:1us
27	<u>calendar year, the fund may use up to 2 percent of the prior</u>	3.33
28	<u>year's premium collected by the fund for the purpose of grants</u>	3.34
29	<u>to local governments, state agencies, and nonprofit charitable</u>	
30	<u>organizations to support programs to mitigate potential</u>	3.36
31	<u>hurricane loss.</u>	3.37

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1	<u>(8) ADVISORY COUNCIL.--The State Board of</u>	3.38
2	<u>Administration shall appoint a nine-member advisory council</u>	3.40
3	<u>that consists of an actuary, a meteorologist, an engineer, a</u>	3.41
4	<u>representative of insurers, a representative of insurance</u>	3.42
5	<u>agents, a representative of reinsurers, and three consumers</u>	3.44
6	<u>who shall also be representatives of other affected</u>	3.46
7	<u>professions and industries, to provide the board with</u>	3.47
8	<u>information and advice in connection with its duties under</u>	
9	<u>this section. Members of the advisory council shall serve at</u>	
10	<u>the pleasure of the board and are eligible for per diem and</u>	
11	<u>travel expenses under s. 112.061.</u>	
12	<u>(9) APPLICABILITY OF SECTION 19, ARTICLE III OF THE</u>	1:1us
13	<u>STATE CONSTITUTION.--The Legislature finds that the Florida</u>	3.49
14	<u>Hurricane Catastrophe Fund created by this section is a trust</u>	3.50
15	<u>fund established for bond covenants, indentures, or</u>	
16	<u>resolutions within the meaning of s. 19(f)(3), Art. III of the</u>	3.51
17	<u>State Constitution.</u>	3.52
18	<u>(10) VIOLATIONS.--Any violation of this section</u>	1:1us
19	<u>constitutes a violation of the Insurance Code.</u>	3.53
20	<u>(11) FEDERAL OR MULTISTATE CATASTROPHIC FUNDS.--Upon</u>	3.54
21	<u>the creation of a federal or multistate catastrophic insurance</u>	
22	<u>or reinsurance program intended to serve purposes similar to</u>	3.55
23	<u>the purposes of the fund created by this section, the State</u>	3.56
24	<u>Board of Administration shall promptly make recommendations to</u>	
25	<u>the Legislature for coordination with the federal or</u>	3.57
26	<u>multistate program, for termination of the fund, or for such</u>	
27	<u>other actions as the board finds appropriate in the</u>	3.58
28	<u>circumstances.</u>	
29	<u>Section 2. The Florida Hurricane Catastrophe Fund</u>	3.59
30	<u>created by section 215.555, Florida Statutes, is exempt from</u>	3.60
31		

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1	<u>the deduction required by section 215.20(1), Florida Statutes.</u>	3.61
2	Section 3. This act shall take effect upon becoming a	3.62
3	law.	
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1	*****	1:hbs
2	HOUSE SUMMARY	1:hbs
3	Creates the Florida Hurricane Catastrophe Fund as a trust	3.65
4	fund under the State Board of Administration and	3.66
5	specifies uses of moneys in the fund. Requires the fund	3.67
6	and specified insurers to enter into reimbursement	
7	contracts and specifies obligations of the fund under	3.68
8	reimbursement contracts. Provides for loans from the	3.69
9	fund. Provides for payment of reimbursement premium,	3.70
10	calculation of reimbursement premium, and accounting and	3.71
11	regulatory treatment of reimbursement premium. Provides	3.72
12	for issuance of revenue bonds on behalf of the fund,	
13	specifies pledged revenues, and authorizes units of local	3.73
14	government to issue such bonds. Authorizes emergency	3.74
15	assessments. Authorizes the fund to procure reinsurance	3.75
16	and authorizes borrowing by the fund. Authorizes the	3.76
17	fund to expend moneys to support programs to mitigate	3.77
18	hurricane losses. Provides for appointment of an	3.79
19	advisory council. Provides for recommendations with	3.80
20	respect to federal or multistate catastrophic funds. See	3.81
21	bill for details.	
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HON. JOHN F. COSGROVE

HURRICANE INSURANCE SOLVENCY
AND COVERAGE PACKAGE

LEGISLATION AND LEGISLATIVE
ANALYSIS/ECONOMIC IMPACT
STATEMENT

HB 33 C

DATE October 31, 1993

HOUSE OF REPRESENTATIVES
COMMITTEE ON
INSURANCE
BILL ANALYSIS & ECONOMIC IMPACT STATEMENT

BILL # HB 33-C

RELATING TO Insurance

SPONSOR(S) Representative Cosgrove

STATUTE(S) AFFECTED: Chapters 624, 625, 626, 627, 628, and 631

COMPANION BILL(S):

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) INSURANCE
- (2)
- (3)
- (4)
- (5)

I. SUMMARY:

This bill addresses the property insurance availability crisis that resulted from Hurricane Andrew. Major changes to current law include:

Orderly markets. The bill provides for a 3-year phaseout of the moratorium on personal lines residential property insurance cancellations and nonrenewals. The current moratorium will stand repealed on November 14. The bill also extends the advance notice period for cancellation or nonrenewal of personal lines or commercial residential policies from 45 days to 90 or 180 days, depending on how long the property had been insured under the policy.

Joint underwriting associations. The bill activates the Florida Property and Casualty Joint Underwriting Association (FPCJUA) for the purpose of providing coverage for condominium associations and apartment buildings. The bill also provides rate making criteria for the Residential Property and Casualty Joint Underwriting Association (RPCJUA), and limits assessment liabilities with respect to deficits in the RPCJUA, the FPCJUA, and the Florida Windstorm Underwriting Association.

Coverage issues. The bill requires insurers to offer replacement cost coverage and law and ordinance coverage, requires premium discounts for installation of devices to mitigate hurricane losses such as shutters, and allows rates to reflect relative quality of building codes.

Solvency. The bill strengthens solvency regulation in several areas. It raises the minimum surplus as to policyholders required of authorized property and casualty insurers and of surplus lines insurers; provides for more frequent examinations of new insurance companies; requires annual actuarial certification of reserves; requires insurers to develop plans to limit geographic concentration of risks; strengthens regulation of transactions between affiliated parties; and provides felony penalties for intentionally false or misleading financial statements filed with the Department of Insurance.

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II SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Despite considerable legislative attention to the results of Hurricane Andrew in three legislative sessions since the storm, significant problems, either caused or made more noticeable by Hurricane Andrew, remain.

Moratorium on cancellations and nonrenewals In the May Special Session, the Legislature imposed a 6-month moratorium on cancellations or nonrenewals of personal lines residential property insurance (i.e., homeowner's insurance and similar types of insurance). The moratorium prohibited cancellations or nonrenewals for the purpose of reducing the insurer's potential hurricane losses, but it allowed cancellations and nonrenewals for other lawful reasons, and it provided for waivers of the restrictions based on the dangers to an insurer's solvency. The moratorium provision will stand repealed on November 14. See the analysis of HB 31-C for a more detailed discussion of insurers' exposure reduction programs and the circumstances giving rise to the moratorium.

Joint Underwriting Associations The Residential Property and Casualty Joint Underwriting Association (RPCJUA) was created in the December, 1992, Special Session to provide personal lines residential coverage for properties that were insurable, but were unable to be covered in the voluntary market. The RPCJUA began writing coverage in March, 1993, and currently insures over 200,000 properties. Approximately 75 percent of the properties covered by the RPCJUA are located in Dade, Broward, and Palm Beach Counties.

As with other joint underwriting associations, the RPCJUA charges premiums for the coverage it provides, but if the premiums are insufficient to pay claims, all insurers writing similar lines of insurance in the voluntary market are assessed according to market share to cover the full amount of the deficit. As the RPCJUA grows in size, the possibility of very large deficit assessments increases, especially in light of the RPCJUA's concentration of exposures in the most hurricane-prone area of the state. A deficit is likely if any hurricane were to strike an area where many RPCJUA insureds are concentrated, and a multi-billion dollar deficit is possible in the event of a major hurricane.

The prospect of a multi-billion dollar RPCJUA deficit, together with unlimited assessments to cover the deficit, creates a pressure on insurers to reduce their Florida market share by reducing their Florida writings. As the RPCJUA grows larger, this pressure increases.

The Florida Property and Casualty Joint Underwriting Association (commonly referred to as the "commercial JUA") was created by statute in 1986, but has never been activated, except for a brief period in 1992 when the Department of Insurance activated the JUA by emergency rule to provide coverage for unrepaired structures damaged by Hurricane Andrew. The department has recently engaged in rulemaking intended to make it easier to activate the commercial JUA to provide coverage for condominium associations and apartment buildings. Many condominium associations have been unable to obtain coverage of condominium structures (under s. 718.111, the condominium association must insure all condominium buildings; condominium owners separately buy insurance to protect the interiors of their units) except with premium

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increases of several hundred percent and substantial increases in deductible. Even at greatly increased premiums, many condominium associations have not been able to procure coverage in the voluntary admitted market, and have had to rely on the generally unregulated surplus lines market.

Coverage issues A number of issues relating to the content of property insurance policies arose after Hurricane Andrew. Many policyholders who had standard, "actual cash value," policies that pay losses on a depreciated basis and do not cover upgrades required by law, did not realize that they could have obtained coverage without these limitations. The problem was most pronounced for the policyholders who were required by the Federal Emergency Management Administration to raise the floor level of their homes by several feet when they rebuilt their homes; raising a house to meet new flood elevation requirements typically cost between \$10,000 and \$30,000, and most affected homeowners were forced to absorb these costs.

After Hurricane Andrew, it became clear that building codes in Dade County were not as rigorous, and were not enforced as rigorously, as insurers had assumed. It also became clear that high-quality buildings, and especially buildings that used loss mitigation devices such as hurricane shutters, produced far less losses than ordinary buildings. Many insurers do not provide any incentive for their policyholders to install devices to reduce hurricane losses. The insurance industry has begun work on a system to rate local building codes and enforcement, similar to the system that rates fire protection by area.

Solvency Seven domestic insurers, and one insurer domiciled outside of Florida, became insolvent directly as a result of Hurricane Andrew. Other companies were rendered "technically insolvent," and retained their solvency only after large infusions of capital from their parent companies. These insolvencies followed a decade-long trend of substantial increases in the number and size of insurer insolvencies. Among the leading causes of insolvencies, as determined from results of comprehensive research by A. M. Best Co., are inadequate reserves, rapid growth, fraud and overstated assets, and improper affiliate relations. Another factor particularly relevant to the Hurricane Andrew insolvencies was over-concentration of property insurance risks in limited geographic areas.

Study Commission The Study Commission on Property Insurance and Reinsurance, created by chapter 93-401, met during the summer of 1993 and made recommendations regarding the property insurance crisis in September. The major recommendations of the study commission were creation of a catastrophe fund to reimburse insurers for a portion of their losses from major hurricanes, and the following

Contract reform: mandatory offer of replacement cost coverage up to policy limits; mandatory offer of law and ordinance coverage with limits of 25 percent of dwelling limits; require waiver of time limits on additional living expenses when policyholder demonstrates good faith effort to repair or replace covered property; authorize the Department of Insurance to assure that policy language on percentage deductibles and wind deductibles is clear and unambiguous and to require minimum contract provisions in personal lines policies issued by surplus lines insurers; prohibit insurers from attempting to reduce policy benefits while a policy is in effect without a corresponding premium reduction.

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Rates: require rate filings to include discounts for retrofits that reduce the risk of damage or loss; authorize use of rate factors that reflect quality and enforcement of building codes, and allow for variation based on the quality of a particular structure; allow the department to adopt a standard hurricane exposure model to be used in evaluating catastrophic loss factors in rate filings; require insurers to use uniform geographical territories in establishing rates for homeowners policies.

Market practices: authorize the department to adopt rules creating a voluntary pool of adjusters who would be available to adjust claims on behalf of any insurer in a catastrophe and to establish a program for informal, nonbinding mediation of disputed first-party claims under homeowners' policies; require establishment of an outreach program to encourage insurers to enter the Florida market.

Orderly markets: for a 3-year period beginning upon expiration of the moratorium, limit cancellations or nonrenewals for the purpose of reducing hurricane exposure to 5 percent of policies in any risk district; authorize the department to grant waivers; require insurers to submit plans for nonrenewal to the department for approval; authorize the department to suspend the certificate of authority of an insurer or affiliate as to other lines when an insurer withdraws from Florida property insurance market.

Solvency: increase minimum surplus for issuance of a certificate of authority to \$5 million; increase minimum surplus for maintenance of a certificate of authority to \$4 million; require reporting of geographic concentration of risks; require insurers to implement plans to avoid excessive geographic concentration; authorize the department to require insurer to implement corrective action plan; require annual actuarial certification as to adequacy of reserves; create felony penalty for knowingly filing a materially false financial statement with intent to deceive the department; require due diligence inquiry as to solvency of reinsurer; limit approved insurance exchanges to those in existence on 1/1/93; provide civil immunity for persons who provide DOI with information about insurer finances (actual malice standard); require annual examination of insurers that have been licensed for 3 years or less; extend to 5 years the minimum frequency of examinations for insurers that have been licensed for 15 years or more; increase minimum surplus for surplus lines insurers to \$15 million; put surplus lines insurers within the Florida Insurance Guaranty Association, with a separate account; require insurers to report premium growth patterns over 33%/year; limit transactions between insurers and affiliates; apply holding company regulations to all insurers other than insurers domiciled in other accredited states; create presumption that an insurer is producer-controlled when the producer owns more than 10% of the insurer; remove authority to waive investment limits; require written waiver of accounting requirements.

Residual markets: provide for credits against assessments to encourage depopulation of the Residential Property and Casualty Joint Underwriting Association; provide that RPCJUA funds revert to the state upon dissolution; split the Florida [Commercial] Property and Casualty Joint Underwriting Association to provide separate coverages for residential commercial and for other commercial.

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B. EFFECT OF PROPOSED CHANGES.

This bill generally contains the recommendations of the study commission described above, as further modified and developed by the committee in a series of workshops prior to this Special Session. The provisions of the bill are described in detail in the Section-by-Section Analysis.

C. SECTION-BY-SECTION ANALYSIS:

Section 1 amends s. 624.307, relating to the powers and duties of the Department of Insurance. The bill requires the department to implement an outreach program, within existing resources, to encourage additional insurers to enter the Florida market.

Section 2 creates s. 624.3101, relating to criminal penalties for false financial statements, effective January 1, 1994. The new section provides that it is a third degree felony for any person to willfully file with the department or sign for filing with the department a materially false or materially misleading financial statement or supporting document required by law or rule, with intent to deceive and with knowledge that the statement or document is materially false or materially misleading. Currently, there is no general criminal penalty for such false statements, but s. 626.9541(1)(e) provides that it is an unfair trade practice to knowingly file a false material statement or make a false entry of a material fact in any books, records, or statements; sanctions include suspension or revocation of the insurer's certificate of authority and administrative fines of up to \$50,000. In addition, with respect to filings under the holding company law, s. 628.803(4) makes it a third degree felony for any officer, director, or employee to willfully and knowingly make any false filing with the intent to deceive the department.

Section 3 creates s. 624.3102, relating to civil immunity. The section provides that any person who furnishes information to the department about the financial condition of an insurer (other than a person filing a required report or other required information) is immune from civil liability arising out of the furnishing of the information, unless the person acted with knowledge that the information was false or the person acted with reckless disregard for the truth or falsity of the information (this is the "actual malice" standard that applies in defamation cases brought by public figures).

Section 4 amends s. 624.316, relating to financial examinations of insurers. Under current law, the department must conduct a financial examination of each domestic insurer at least once every 3 years, and may examine any insurer whenever warranted for the protection of policyholders or in the public interest.

Causes and characteristics of insolvencies were recently analyzed by the A. M. Best Co. in a series of comprehensive, long-term studies. The studies linked the age of an insurer to its potential for insolvency. Although only 27 percent of all property and casualty companies in the study had been in existence for 15 years or less, these companies were responsible for 50 percent of all property and casualty insolvencies. Similarly in the life and health segment of the industry, the 36 percent of companies that were in existence for 20 years or less were responsible for 49 percent of the insolvencies.

This section requires the department to conduct an examination once a year with respect to an insurer that has held a certificate of authority in Florida for less than 3

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years, and prohibits the department from accepting an independent CPA audit report in lieu of these required examinations (as is currently allowed with respect to examinations of other insurers). The costs that may be charged to an insurer for an examination under this annual examination requirement is limited to \$25,000; the scope of the examination may be limited if the insurer has demonstrated "sufficient compliance."

The bill creates an exception to the current requirement that a domestic insurer be examined at least once every 3 years. It provides that an insurer need be examined only once every 5 years if it has continuously held a certificate of authority, without a change in ownership, for at least 15 years and has demonstrated "sufficient compliance." The department is required to adopt rules for determining sufficient compliance, and is required to publish an annual list of companies showing sufficient compliance, with special recognition for community contributions and support.

Section 5 amends s. 624.407, relating to the minimum surplus as to policyholders required for issuance of a certificate of authority. For property and casualty insurers, this section increases the minimum surplus requirement from \$2.5 million (or, if greater, 10 percent of total liabilities) to \$5 million or 10 percent of total liabilities. Surplus requirements for other insurers (life, health, title) are not changed by the bill. Comparison of Florida's surplus requirements to those of other states is difficult, in part because Florida law refers to "surplus as to policyholders," while most other states distinguish between surplus and paid-in capital; however, it may be generally concluded that this increase would place Florida's surplus requirements among the highest in the nation.

The current surplus requirements were adopted in 1989 (see s. 25, ch. 89-360, Laws of Florida). Prior to the 1989 revision, the minimum surplus required for issuance of a certificate of authority was \$1.75 million (or, if greater, 3 percent of required reserves for annuities plus 5 percent of other net required reserves for a life, health, or life and health insurer, or 10 percent of total net required reserves for other insurers).

Under s. 628.461, which is not amended by this bill, the acquisition of a domestic insurer is subject to all requirements for issuance of a certificate of authority; taking the changes made by this section together with s. 628.461, the acquisition of a domestic company could not be approved unless the acquiring entity had surplus of at least \$5 million.

Section 6 amends s. 624.408, relating to minimum surplus required for maintenance of a certificate of authority. For property and casualty insurers, this section increases the minimum surplus requirement from \$1.5 million (or, if greater, 10 percent of total liabilities) to \$4 million or 10 percent of total liabilities. Surplus requirements for other insurers (life, health, title) are not changed by the bill. Insurers holding certificates of authority on July 1, 1993, are given until December 31, 2004, to come into full compliance, according to a schedule of annual increments beginning December 31, 1994. The first five annual increments are \$150,000 each, followed by four annual increments of \$250,000 each, one annual increment of \$350,000, and one annual increment of \$400,000.

The current requirements were adopted in 1989 (see s. 26, ch. 89-360, Laws of Florida). Prior to the 1989 act, minimum surplus of \$1 million (or, if greater, 3 percent of required reserves for annuities plus 5 percent of other net required reserves for a

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life, health, or life and health insurer, or 10 percent of total net required reserves for other insurers) was required in order to maintain a certificate of authority. The 1989 act gave existing certificate holders until December 31, 1992, to come into full compliance, and phased in the requirement by requiring specified annual increments.

Section 7 amends s. 624.424, relating to the annual statement. The bill requires each insurer's annual statement to contain a statement of opinion on loss and loss adjustment expense reserves made by a member of the American Academy of Actuaries or a qualified loss reserve specialist, under criteria established by rule. A similar requirement, applicable only to life insurance, is contained in s. 625.121(3). In addition, s. 625.121(14) was created in 1991 to give the department a broad grant of rulemaking authority for standards applicable to the valuation of health plans in accordance with sound actuarial principles; this grant of authority may be construed as allowing the department to adopt, by rule, a requirement for actuarial opinions of health insurance reserves.

This section also requires that any exception to, waiver of, or interpretation of accounting requirements of the department must be in writing and signed by an authorized representative of the department. An insurer is prohibited from raising as a defense any exceptions, waivers, or interpretations of accounting requirements that do not meet this requirement. This new provision should prevent undocumented claims that waivers of accounting requirements were approved by the department, and claims based on a waiver given by a person lacking authority.

Section 8 creates s. 624.4243, relating to computation and reporting of premium growth. Unusual patterns of premium growth was another area examined in the Best's studies. Best's reported that the vast majority of companies that became insolvent displayed unusual patterns of premium growth (defined as annual growth rates above 50 percent or below -10 percent). Only 5 percent of property and casualty insolvencies in the study were among companies with normal growth patterns in the year prior to insolvency; 42 percent were among companies with above normal growth and 53 percent were among companies with below normal growth. Twenty percent of life and health insolvencies displayed normal premium growth in the year prior to insolvency, while 35 percent displayed above normal growth and 45 percent displayed below normal growth.

This section requires each insurer to calculate its annual growth in premium writings once each month. If the insurer's rate of annual premium growth exceeds 33 percent, the insurer must file a monthly informational statement with the department; the department may require the insurer to provide an explanation of its premium growth. Instead of complying with these requirements, insurers that have held a certificate of authority for less than 24 months are required to submit monthly reports of premium writings.

Section 9 amends s. 624.610, relating to reinsurance. Currently, an assuming underwriting member of an insurance exchange located outside of Florida (such as Lloyd's) is considered an approved reinsurer; the bill limits this provision to insurance exchanges that were in existence on or before January 1, 1993. The bill also requires each ceding insurer to conduct a due diligence inquiry concerning the solvency and reputation of each assuming reinsurer.

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Section 10 amends s. 625.305, relating to diversification of investments. A domestic insurer or a commercially domiciled insurer is required to maintain an amount equal to its entire reserve required under Part I of Chapter 625, and its minimum surplus as to policyholders, in allowed assets and authorized investments.

Current law, last revised in 1991, limits a domestic insurer's or commercially domiciled insurer's investments in medium to lower quality securities (junk bonds and similar investments) to a maximum of 13 percent of an insurer's admitted assets, with specific lower limits for particular classes of medium to lower quality investments. An insurer that was not in compliance with these requirements on October 1, 1991, has until January 1, 1996, to come into compliance.

Currently, these restrictions may be waived by the department in writing, and the department may, until January 1, 1996, consent to acquisition of additional medium to lower quality securities by a company already exceeding the limits on such securities if the securities are acquired as substitutions or replacements. The bill removes the power of the department to grant these waivers and consents.

Section 11 amends s. 626.7491, relating to the definition of producer-controlled business. The Business Transacted with Producer Controlled Property or Casualty Insurer Act was adopted in 1992 to regulate transactions between producer (i.e., insurance agent) controlled insurers and the controlling producer. The bill amends the definition of control for purposes of the act to create a presumption of control when a person holds or has the ability to vote 10 percent or more of the voting securities of the insurer; current law creates the presumption with respect to a majority of voting shares. The 10 percent presumption of control is consistent with other definitions of control within the Insurance Code.

Section 12 amends s. 626.918, relating to minimum surplus requirements for surplus lines insurers. A surplus lines insurer is an insurer that does not hold a Florida certificate of authority, but is eligible to write coverage in Florida when that coverage cannot be procured from authorized insurers (i.e., insurers holding certificates of authority). Surplus lines insurers are generally not regulated as to policy content or rates, and their policyholders are not entitled to guaranty fund protection in the event of the insurer's insolvency.

Currently, a surplus lines insurer is subject to the same minimum surplus requirements as authorized insurers (see the summary of sections 5 and 6, above). The bill increases the surplus requirement for surplus lines insurers to \$15 million. For a surplus lines insurer that was eligible to write coverage in Florida on January 1, 1994, and that maintained its eligibility thereafter, the bill provides a 10-year phase-in of the new requirements, requiring surplus to be increased by \$1 million a year for the first 5 years, \$1.5 million a year for the next 3 years, and \$2 million a year for the last 2 years.

There are two exceptions to these changes. Currently, a surplus lines insurer that has not held a certificate in its state of domicile for at least 3 years may become eligible in Florida only if it maintains surplus of at least \$10 million. To reflect the other changes made to this section, the bill increases this amount to \$25 million. An insurance exchange created under the laws of another state is exempt if it meets the surplus requirements of its state or if it maintains aggregate surplus of at least \$50 million. An insurance exchange is also exempt if the exchange maintains funds for the protection

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of all exchange policyholders, and if each individual syndicate within the exchange maintains surplus of at least \$3 million.

Section 13 creates s. 627.0629, relating to rates for residential property insurance. The section provides that, effective July 1, 1994, a rate filing must include discounts, credits, or other rate differentials for structures on which fixtures demonstrated to reduce the amount of loss in a hurricane (such as hurricane shutters) have been installed.

The section also provides that a residential property insurance rate filing may include rate factors that reflect the quality of a jurisdiction's building code and enforcement, but these rate factors must allow for individual variation based on inspection of a particular structure. The Dade County Grand Jury issued a report on December 14, 1992, that was highly critical of local building codes and the enforcement of those codes; some estimates attribute as much as 25 percent of Hurricane Andrew losses to lax building codes and enforcement.

Computer models for predicting hurricane losses have gained favor in recent years. Prior to the development of these technologies, a 30-year historical average was the most common method of predicting hurricane losses. There is no consensus, however, on which computer models are most reliable. This section requires the Department of Insurance to adopt a standard model by rule, for use by the department in evaluating catastrophic loss factors in residential property insurance rate filings. The model must be developed in accordance with accepted actuarial principles, considering insurance industry experience, scientific studies and forecasts, National Weather Service data, and other appropriate information. If an insurer uses a different model or other means to project hurricane losses, the department may require the insurer to demonstrate that the insurer's model is at least as reliable as the department's model.

Section 14 amends s. 627.351, relating to joint underwriting associations.

Windstorm insurance risk apportionment plan The bill revises provisions relating to assessments to cover deficits in the windstorm pool. The windstorm pool (officially, the Florida Windstorm Underwriting Association) provides coverage for the peril of windstorm when unavailable in the voluntary market in areas found by the department to be eligible. Generally, eligible areas are high-risk coastal areas. When the windstorm pool sustains a deficit, property insurers are assessed on a market share basis to cover the deficit, except that insurers with surplus of \$20 million or less that write at least 25 percent of their countrywide business in Florida are exempt from liability for their share of assessments that, in the aggregate, exceed \$50 million.

The bill provides that deficit assessments are an appropriate factor in the making of rates. The bill also contains findings relating to the need for limits on assessments, stating that the potential for unlimited assessments may induce insurers to attempt to reduce their writings in the voluntary market, thereby worsening the availability problems the windstorm pool was created to remedy. The bill provides that insurers remain fully responsible for deficits, but the maximum total of deficit assessments with respect to any year is limited to 10 percent of the statewide total gross written premium for coverages subject to the pool; however, if bonds are issued to defray the deficit (see below), the maximum assessment in a year is 10 percent of the deficit and the assessments continue annually until the bonds are

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retired. See the discussion of the Residential Property and Casualty Joint Underwriting Association, below, for hypothetical examples of these assessment limits

The bill provides that a unit of local government whose residents are insured by the windstorm pool may issue revenue bonds for the benefit of the windstorm pool to defray windstorm pool deficits. Assessments, as described above, would be pledged to retire the bonds. This is substantially similar to the method of bonding used in the December, 1992, Special Session, to cover Florida Insurance Guaranty Association (FIGA) deficits.

Florida [Commercial] Property and Casualty Joint Underwriting Association
 The FPCJUA was created in 1986, as part of the legislative package addressing that year's commercial liability insurance crisis, to provide property and casualty coverage, except for coverage provided by other JUAs. The FPCJUA has never been activated, except for a brief period in 1992 when the JUA was activated by emergency rule of the Insurance Department to provide coverage for unrepaired structures after Hurricane Andrew. By statute, coverage in the JUA is activated based on the number of applications for which the Market Assistance Plan was unable to provide a quotation. The Market Assistance Plan was established in 1986 to serve as a clearinghouse to provide quotations for insurance agents who were otherwise unable to place coverage. The FPCJUA is activated with respect to a particular class of risk when the Market Assistance Plan receives over 100 applications in a 3-month period, or over 200 applications within a 1-year period, for coverage in that class and is unable to provide a quotation for at least 80 percent of the applicants. The Department of Insurance recently adopted Emergency Rule 4ER93-29 for the purpose of making activation of the FPCJUA for condominium association and apartment building coverage more likely. The emergency rule amends the FPCJUA plan of operation to specify that condominium association and apartment building coverages constitute a single class of risk. The emergency rule also provides that a quotation is not eligible for consideration if exceeds the admitted insurer's filed rate or, for surplus lines quotations, it exceeds the JUA rate (which is based on ISO loss cost factors) by more than 25 percent. The emergency rule also waives the current \$1 million policy limit with respect to the property portion of coverages issued by the FPCJUA.

The bill provides an alternative trigger for activation of the FPCJUA: if the department finds that any line, class, or type of coverage is not available at adequate levels from authorized insurers in the state or in a particular geographic area, JUA coverage of that line, class, or type is activated. The bill also provides legislative findings to the effect that the market conditions which the JUA was intended to remedy have arisen with respect to coverage for condominium associations, apartment buildings, and other commercial coverages of residences, and it immediately activates the JUA for these coverages.

The bill requires the department to annually review the need for coverage under the JUA and authorizes deactivation of coverage. In addition, the bill calls for legislative review of the alternative trigger and the activation for residential coverage by July 1, 1996, prohibits writing residential coverage after that date, and repeals the alternative trigger on that date.

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The bill also provides criteria for JUA rates for residential coverage. The rates must be actuarially sound, and must include an appropriate catastrophe factor that reflects the actual catastrophic exposure of the JUA. As soon as the JUA has developed sufficient loss experience, the rates must be based on the JUA's actual loss experience, together with the catastrophe factor. Under current law, FPCJUA initial rates must be based on the most current ISO (Insurance Services Office) rate filing, plus an additional 25 percent. Emergency Rule 4ER93-29 interprets this requirement to mean the most recently filed and approved ISO loss costs, multiplied by a specific multiplier (1.9 for composite rated commercial package, 2.04 for fire, and 1.7 for general liability). These rating standards remain applicable to FPCJUA nonresidential coverages.

The bill provides that FPCJUA deficit assessments are an appropriate factor in the making of rates. The bill also contains findings relating to the need for limits on assessments, stating that the potential for unlimited assessments may induce insurers to attempt to reduce their writings in the voluntary market, thereby worsening the availability problems the FPCJUA was created to remedy. The bill provides that insurers remain fully responsible for deficits, but the maximum total of deficit assessments with respect to any year is limited to 10 percent of the statewide total gross written premium for coverages subject to the FPCJUA, however, if bonds are issued to defray the deficit (see below), the maximum assessment in a year is 10 percent of the deficit and the assessments continue annually until the bonds are retired. See the discussion of the Residential Property and Casualty Joint Underwriting Association, below, for hypothetical examples of these assessment limits.

The bill provides that a unit of local government whose residents are insured by the FPCJUA may issue revenue bonds for the benefit of the FPCJUA to defray FPCJUA deficits. Assessments, as described above, would be pledged to retire the bonds. This is substantially similar to the method of bonding used in the December, 1992, Special Session, to cover Florida Insurance Guaranty Association (FIGA) deficits.

Residential Property and Casualty Joint Underwriting Association The Residential Property and Casualty Joint Underwriting Association (RPCJUA) was created in the December, 1992, Special Session to provide personal lines residential coverage (i.e., homeowner's and similar coverages) when the coverage was unavailable in the voluntary market. The RPCJUA began writing coverage in March, 1993, and currently has over 200,000 policyholders. When the RPCJUA's premium revenues are not sufficient to pay claims, insurers are assessed a portion of their premiums for personal lines residential property coverage on a market share basis to cover the deficit.

The bill provides legislative intent that the rates for coverage provided by the RPCJUA be actuarially sound and that the RPCJUA function as a residual market mechanism to provide insurance only when the insurance cannot be procured in the voluntary market. Rates of the plan must be based on the JUA's actual loss experience and expenses, together with an appropriate catastrophe loading factor that reflects the JUA's actual catastrophic exposure. These rate standards replace the requirement that the rates be based on the average loss costs of the 5 largest residential insurers, plus appropriate factors for catastrophe loading, projected expenses of the plan, and a 25 percent increment for presumed adverse selection.

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The bill requires the JUA to make a rate filing on March 31 and September 30 of each year. Currently, the JUA must make a rate filing no later than September 30 of each year.

The bill provides that RPCJUA deficit assessments are an appropriate factor in the making of rates. The bill also contains findings relating to the need for limits on assessments, stating that the potential for unlimited assessments may induce insurers to attempt to reduce their writings in the voluntary market, thereby worsening the availability problems the RPCJUA was created to remedy. The bill provides that insurers remain fully responsible for deficits, but the maximum total of deficit assessments with respect to any year is limited to 10 percent of the statewide total gross written premium for coverages subject to the RPCJUA; however, if bonds are issued to defray the deficit (see below), the maximum assessment in a year is 10 percent of the deficit and the assessments continue annually until the bonds are retired.

This is how the assessment limitations would operate in two hypothetical situations if the applicable statewide total gross written premium were \$3 billion and the deficit were \$200 million, the full \$200 million would be assessed in the year of the deficit, since \$200 million is less than 10 percent of \$3 billion. However, if the deficit were \$400 million, bonds would be issued to cover the deficit, and the total amount of assessments would be \$40 million annually until the bonds are paid off.

The bill provides that a unit of local government whose residents are insured by the RPCJUA may issue revenue bonds for the benefit of the RPCJUA to defray RPCJUA deficits. Assessments, as described above, would be pledged to retire the bonds. This is substantially similar to the method of bonding used in the December, 1992, Special Session, to cover Florida Insurance Guaranty Association (FIGA) deficits.

The bill provides an incentive for new insurers to enter the Florida market. It provides that the RPCJUA plan of operation must provide credits against assessments for an insurer's voluntarily written property coverage in areas of high potential hurricane losses. The credits apply only if the insurer began writing personal lines residential property coverage in Florida after the bill's effective date and apply for a period of 3 years or until the insurer reaches a market share of 0.5 percent, whichever occurs first.

The bill adds a means for dissolution of the RPCJUA. The JUA is dissolved after a finding by the JUA board that the conditions giving rise to creation of the JUA no longer exist and Department of Insurance consent to those findings. Upon dissolution, the assets remaining after payment of the JUA's obligations will revert to the Florida Hurricane Catastrophe Fund (created by HB 31-C). This provision was recommended by the RPCJUA board to enable the JUA to obtain an exemption from federal taxation.

Section 15 amends s. 627.4133, relating to notice of cancellation, nonrenewal, or renewal premium. Current law is retained except for personal lines or commercial residential property insurance policies. With respect to residential policies, the bill provides for 45 days' advance notice of renewal premium, as in current law, but requires 90 days' or 180 days' advance notice of nonrenewal, cancellation, or termination, instead of the 45 days currently provided. The 90-day notice would apply if

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the property had not been insured under the policy for at least 5 years, and the 180-day notice would apply if the property has been covered for 5 years or more. Current provisions relating to nonpayment of premium (10 days' notice) and termination within the first 90 days of a policy (20 days' notice) are retained. If an insurer fails to timely provide the required notice, other than the 10-day notice, the policy remains in effect from the day of the notice until the end of the 20, 45, 90, or 180 day notice, respectively.

Section 16 amends s. 617.701, relating to deductibles in property insurance contracts. The section prohibits the department from approving a residential property policy form that contains deductibles applicable only to windstorm losses or deductibles measured as a percentage rather than a dollar amount unless the wording of the deductible provision is clear and unambiguous.

Section 17 creates s. 627.7011, relating to replacement cost coverage and law and ordinance coverage. The basic homeowner's policy typically provides for adjustment of claims on an "actual cash value" basis, which deducts depreciation from the value of the claim. Insurers generally also make available policies or endorsements providing for adjustment of claims on a "replacement cost" basis that does not deduct depreciation. Insurers also generally make available a policy or endorsement providing "law and ordinance" coverage that nullifies (or "buys back") policy exclusions for costs necessary to meet applicable laws regulating the construction, use, or repair of property or requiring the tearing down of property including the cost of removing its debris. When a building is required to be rebuilt, law and ordinance coverage covers the costs of assuring that the building meets all current building codes and similar requirements.

This section requires that, prior to issuing or renewing a homeowner's policy, an insurer must offer a policy or endorsement providing replacement cost coverage, and a policy or endorsement providing replacement cost coverage and law and ordinance coverage (the amount of costs to be paid under the law and ordinance coverage may be limited to 25 percent of the dwelling limit). If the insurer does not obtain the policyholder's written refusal of both offers, the policy is deemed to include replacement cost coverage and law and ordinance coverage. The insurer is not required to make these offers with respect to the issuance or renewal of a policy that includes replacement cost coverage and law and ordinance coverage. These requirements do not apply to policies covering mobile homes, and do not restrict an insurer's ability to reject risks for particular coverages for underwriting reasons.

This section also contains a statement that it is not intended to affect any pending legal actions or to express an opinion on the issues in pending legal actions.

Section 18 creates s. 627.7012, relating to emergency adjuster pools. The section authorizes the Department of Insurance to adopt rules establishing pools of qualified adjusters. In an emergency, any insurer would be able to use pool adjusters to adjust claims in their assigned areas, but no insurer is required to use these adjusters. The rules must specify the qualifications of adjusters in the pools.

Section 19 creates s. 627.7013, relating to orderly markets for personal lines residential property insurance. The section contains legislative findings establishing the state's interest in maintaining an orderly market for personal lines residential property insurance.

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The section provides for a phaseout of the moratorium on cancellation or nonrenewal of personal lines residential property insurance policies, which was enacted as part of Chapter 93-401, Laws of Florida (HB 89-B), and which expires on November 14, 1993. This section provides that, as to policies that were subject to the moratorium, an insurer may not, in any 12-month period, cancel or nonrenew more than 5 percent of its policies in the state for the purpose of reducing the insurer's exposure to hurricane claims; cancellations or nonrenewals for any other lawful reason are not affected. New policies issued after expiration of the moratorium are not subject to this 5 percent limit. An insurer may obtain a waiver of the 5 percent restriction if it demonstrates to the department that cancellations or nonrenewals are necessary for the insurer to avoid an unreasonable risk of insolvency. The department has 30 days after receiving an application for waiver to notify the insurer of additional information required by the department; the insurer must provide that information within 30 days after the notice. The department must take final action on an application for waiver within 30 days after receiving the additional information (or, if no additional information was required, within 60 days after sending notice that no information was required). These time limits may not be tolled for any reason. The moratorium phaseout provisions expire on November 14, 1996.

This section also requires insurers to submit their plans for hurricane exposure reduction to the department at least 6 months prior to the first cancellation or nonrenewal under the exposure reduction plan. The department may disapprove a plan only if it finds that the plan would unreasonably destabilize the personal lines residential property insurance market. The requirement for submission of exposure reduction plans does not apply with respect to cancellations and nonrenewals allowed under the moratorium phaseout provisions; therefore, the first exposure reduction plans subject to this approval requirement would be plans scheduled to take effect after November 14, 1996.

Section 20 creates s. 627.7014, relating to geographic concentrations of property insurance risks. The section allows the department to require property insurers to develop plans for the avoidance of such concentration of property insurance exposures as would render them financially impaired in the event of a disaster. In addition, the department is required to adopt rules for the annual reporting of property exposures by geographic region and the effect of reinsurance on those exposures. If the department finds that an insurer's exposures are overly concentrated, the department may require the insurer to submit a plan to alter the geographic distribution of its exposures to an appropriate level within a reasonable period of time.

Section 21 amends s. 628.801, relating to insurance holding companies. Currently, insurance holding companies are regulated under Part III of Chapter 628, and under Chapter 4-26 of the Florida Administrative Code. The key features of holding company regulation are the filing of registration statements which include disclosures of owners, affiliates, and affiliate contracts, standards for disapproval of affiliate contracts, and notice and prior approval requirements for extraordinary dividends and distributions to shareholders and for specified transactions and arrangements. Although the statute by its terms is not limited to domestic insurers, the rules generally apply only to domestic insurers. Registration requirements do not apply to foreign insurers subject to holding company requirements substantially similar to Florida requirements; in practice, the department applies this provision to exclude all foreign insurers. Standards for transactions between affiliated entities apply only to insurers subject to registration

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requirements. Requirements of advance notice and prior approval of certain dividends and affiliate transactions specifically apply only to domestic insurers.

Sections 4 and 5 of the NAIC Insurance Holding Company System Regulatory Act contain further requirements. Where the current Florida rule requires one-time-only filing of registration statements, the NAIC Model Act requires annual filings. Where the rule requires the registration statement to contain "information about" specified investments, transactions, and contracts (including affiliate loans, exchanges of assets, transactions creating contingent exposure of the insurer's assets to liability, management and service contracts, cost sharing arrangements, and certain reinsurance agreements), the NAIC Model Act requires the filing of the agreements themselves as part of the registration statement.

This section of the bill requires that Florida holding company rules must include all requirements of sections 4 and 5 of the NAIC Model Act, unless in conflict with the code. The effect of this change is to require annual filing of registration statements and to require that the statements include specified agreements rather than information about those agreements. The bill also provides that the rules may include a prohibition on oral contracts between affiliates; this is intended to prevent evasion of filing requirements. In addition, this section expands applicability of the holding company provisions to all insurers domiciled in states not accredited by the NAIC.

The department is allowed to waive filing requirements for a domestic insurer that is a subsidiary of an insurer that is in full compliance with the insurance holding company laws of its state of domicile, if that state is accredited by the NAIC.

Section 22 amends s. 631.52, relating to the scope of the Florida Insurance Guaranty Association Act. The Florida Insurance Guaranty Association (FIGA) is created by law to pay claims under policies of property and casualty insurers that have become insolvent. FIGA is funded by assessments on insurers of up to 2 percent of the insurer's premium for each of the 4 categories of coverage ("accounts") within FIGA (workers' compensation, auto liability, auto physical damage, and all other).

Policies written by a surplus lines insurer are not eligible for FIGA protection when the surplus lines insurer becomes insolvent. A surplus lines insurer is an insurer that does not hold a Florida certificate of authority, but is eligible to write coverage in Florida when that coverage cannot be procured from authorized insurers (i.e., insurers holding certificates of authority). Surplus lines insurers are generally not regulated by the Florida Department of Insurance as to policy content or rates; one justification for the unregulated nature of surplus lines transactions is that these transactions are typically business-to-business transactions between equally sophisticated parties. Reductions in the availability of coverage from authorized insurers have led to an increase in the number of residential property policies being written by surplus lines insurers, especially for coverage of condominium associations.

The section provides that the act applies to surplus lines coverage of residential property. The effect of this change is that a policyholder having a claim against a surplus lines insurer that became insolvent would be able to receive from FIGA that portion of the claim that is greater than \$100 and less than \$300,000.

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Section 23 amends s. 631.54, relating to definitions for the Florida Insurance Guaranty Association Act. The section defines surplus lines insurers as "member insurers" for purposes of the act, but only as to residential coverage.

Section 24 amends s. 631.55, relating to the structure of the Florida Insurance Guaranty Association (FIGA). The section provides that for purposes of administration and assessment, FIGA shall be divided into 5 separate accounts: the 4 currently existing accounts and a new account for surplus lines residential coverage. Thus, FIGA claims under surplus lines residential policies would lead to assessments only of surplus lines insurers; the maximum amount of these assessments of surplus lines insurers in a year would be 2 percent of net direct written premium for residential coverage.

Section 25 requires the Department of Insurance to conduct a study of the appropriateness of continuing to classify condominium association master policies as commercial insurance policies. The section requires the department to make a report and recommendations to the Legislature by January 1, 1994.

Section 26 amends s. 625.330, relating to special investments by title insurers, to correct a cross-reference to s. 624.408 (minimum surplus).

Section 27 amends s. 631.011, relating to rehabilitation and liquidation, to correct a cross-reference to s. 624.408 (minimum surplus).

Section 28 provides that, except as otherwise provided in the act, the act will take effect upon becoming a law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

Expenditures: Section 13 requires the Department of Insurance to develop a standard model for projecting hurricane losses. The amount to be expended on developing this model has not been determined.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

Expenditures: Nonrecurring cost of developing a standard hurricane exposure model.

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B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

Section 4 requires the Department of Insurance to conduct financial examinations of new insurers annually for the first 3 years of the insurer's existence; current law requires an examination once every 3 years. Insurers are required to bear the cost of financial examinations; however, the section requiring annual examinations of new insurers also limits the total cost to an insurer of each of these examinations to \$25,000.

Sections 5 and 6 increase the amount of surplus as to policyholders required of authorized property and casualty insurers for issuance of a certificate of authority and the amount required for maintenance of a certificate of authority, and section 12 increases the minimum surplus required of a surplus lines insurer. For existing insurers, the increase, spread over 10 years in annual increments, will require that a portion of earnings that could otherwise have been paid out as dividends be retained as surplus. The same situation may apply to a company entering Florida if it is not subject to similar surplus requirements in other states. As of December 31, 1992, 40 authorized insurers had surplus below the \$4 million required by section 6, and 48 surplus lines insurers had surplus below the \$15 million required by section 12; most of these companies were substantially below the new requirements.

Section 14 activates the Florida Property and Casualty Joint Underwriting Association for the purpose of providing coverage for condominium associations and apartment buildings. If the premiums collected for this coverage are not sufficient to pay claims, all insurers will be assessed a portion of their commercial property and casualty premiums to cover the FPCJUA deficit.

Section 17, which requires insurers to offer replacement cost coverage and law and ordinance coverage in connection with issuance or renewal of homeowner's policies, will increase regulatory burdens on insurers and agents; however, this section will also benefit consumers by assuring that they are aware that these coverages are available.

Several provisions of the bill create reporting requirements which will impose administrative costs on insurers: section 7 (actuarial opinion of reserves), section 8

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(reports of premium growth rates), section 20 (reports of geographical concentration of property insurance exposures), and section 21 (expanding applicability of holding company laws to include foreign insurers domiciled in non-accredited states, requiring filing of certain agreements).

2. Direct Private Sector Benefits:

The general purposes of the bill are to provide for a stable private sector property insurance market, reduce insurer insolvencies, and assure that appropriate coverages are available to consumers. If these purposes are achieved, policyholders will be assured that needed coverage is available in the private market and that insurers will be better able to keep their promises.

The provisions limiting assessments to fund joint underwriting association deficits and providing for amortization of large deficits over a period of years (section 14) will reduce the potential impact on insurers of joint underwriting association assessments on companies, as compared with the current unlimited assessments.

In addition to these general benefits, the bill will assure that coverage is available for condominium associations in the Florida Property and Casualty Joint Underwriting Association (section 14), that property insurance premiums will reflect efforts of policyholders to protect properties from hurricane losses (section 13), and that persons insured by surplus lines insurers are able to have their claims paid in the event of the surplus lines insurer's insolvency (sections 22-24).

3. Effects on Competition, Private Enterprise and Employment Markets:

Sections 5 and 6 increase the amount of surplus as to policyholders required for issuance of a certificate of authority and the amount required for maintenance of a certificate of authority. The increase in surplus required for issuance of a certificate (from \$2.5 million to \$5 million) applies to all certificates issued on or after the effective date of the act, while insurers currently holding certificates are given 10 years, beginning December 31, 1994, to come into compliance with the requirement of at least \$4 million in surplus in order to maintain a certificate of authority (increased from the current \$1.5 million requirement). Similarly, existing surplus lines insurers have 10 years to meet the \$15 million surplus requirement of section 12, while a surplus lines company newly entering Florida would immediately be subject to the full \$15 million requirement. These changes may be viewed as creating a competitive advantage for insurers currently holding a certificate, and a barrier to entry for insurers wishing to enter the Florida market.

Section 21, which expands applicability of holding company requirements to insurers domiciled in non-accredited states, may be viewed as reducing a competitive disadvantage of domestic companies, which are currently the only companies subject to holding company regulation by the Florida Department of Insurance.

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D. FISCAL COMMENTS:

The bill requires annual (as opposed to triennial) examinations of insurers that have been licensed for five years or less; however the provision for examination of certain insurers at least once every five years, rather than at least once every three years, is intended to balance out this workload increase.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

Not applicable.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

Not applicable.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

Not applicable.

V. COMMENTS:

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

HON. JOHN F. COSGROVE

SECTION-BY-SECTION SUMMARY OF PROPERTY INSURANCE BILL (HB 33-C)

Section 1 amends s. 624.307, relating to the powers and duties of the Department of Insurance. The bill requires the department to implement an outreach program, within existing resources, to encourage additional insurers to enter the Florida market.

Section 2 creates s. 624.3101, relating to criminal penalties for false financial statements, effective January 1, 1994. The new section provides that it is a third degree felony for any person to willfully file with the department or sign for filing with the department a materially false or materially misleading financial statement or supporting document required by law or rule, with intent to deceive and with knowledge that the statement or document is materially false or materially misleading. Currently, there is no general criminal penalty for such false statements, but s. 626.9541(1)(e) provides that it is an unfair trade practice to knowingly file a false material statement or make a false entry of a material fact in any books, records, or statements; sanctions include suspension or revocation of the insurer's certificate of authority and administrative fines of up to \$50,000. In addition, with respect to filings under the holding company law, s. 628.803(4) makes it a third degree felony for any officer, director, or employee to willfully and knowingly make any false filing with the intent to deceive the department.

Section 3 creates s. 624.3102, relating to civil immunity. The section provides that any person who furnishes information to the department about the financial condition of an insurer (other than a person filing a required report or other required information) is immune from civil liability arising out of the furnishing of the information, unless the person acted with knowledge that the information was false or the person acted with reckless disregard for the truth or falsity of the information (this is the "actual malice" standard that applies in defamation cases brought by public figures).

Section 4 amends s. 624.316, relating to financial examinations of insurers. Under current law, the department must conduct a financial examination of each domestic insurer at least once every 3 years, and may examine any insurer whenever warranted for the protection of policyholders or in the public interest.

This section requires the department to conduct an examination once a year with respect to an insurer that has held a certificate of authority in Florida for less than 3 years, and prohibits the department from accepting an independent CPA audit report in lieu of these required examinations (as is currently allowed with respect to examinations of other insurers). The costs that may be charged to an insurer for an examination under this annual examination requirement is limited to \$25,000; the scope of the examination may be limited if the insurer has demonstrated "sufficient compliance."

The bill creates an exception to the current requirement that a domestic insurer be examined at least once every 3 years. It provides that an insurer need be examined only once every 5 years if it has continuously held a certificate of authority, without a change

in ownership, for at least 15 years and has demonstrated "sufficient compliance." The department is required to adopt rules for determining sufficient compliance, and is required to publish an annual list of companies showing sufficient compliance, with special recognition for community contributions and support.

Section 5 amends s. 624.407, relating to the minimum surplus as to policyholders required for issuance of a certificate of authority. For property and casualty insurers, this section increases the minimum surplus requirement from \$2.5 million (or, if greater, 10 percent of total liabilities) to \$5 million or 10 percent of total liabilities. Surplus requirements for other insurers (life, health, title) are not changed by the bill. Comparison of Florida's surplus requirements to those of other states is difficult, in part because Florida law refers to "surplus as to policyholders," while most other states distinguish between surplus and paid-in capital; however, it may be generally concluded that this increase would place Florida's surplus requirements among the highest in the nation.

The current surplus requirements were adopted in 1989 (see s. 25, ch. 89-360, Laws of Florida). Prior to the 1989 revision, the minimum surplus required for issuance of a certificate of authority was \$1.75 million (or, if greater, 3 percent of required reserves for annuities plus 5 percent of other net required reserves for a life, health, or life and health insurer, or 10 percent of total net required reserves for other insurers).

Section 6 amends s. 624.408, relating to minimum surplus required for maintenance of a certificate of authority. For property and casualty insurers, this section increases the minimum surplus requirement from \$1.5 million (or, if greater, 10 percent of total liabilities) to \$4 million or 10 percent of total liabilities. Surplus requirements for other insurers (life, health, title) are not changed by the bill. Insurers holding certificates of authority on July 1, 1993, are given until December 31, 2004, to come into full compliance, according to a schedule of annual increments beginning December 31, 1994. The first five annual increments are \$150,000 each, followed by four annual increments of \$250,000 each, one annual increment of \$350,000, and one annual increment of \$400,000.

The current requirements were adopted in 1989 (see s. 26, ch. 89-360, Laws of Florida). Prior to the 1989 act, minimum surplus of \$1 million (or, if greater, 3 percent of required reserves for annuities plus 5 percent of other net required reserves for a life, health, or life and health insurer, or 10 percent of total net required reserves for other insurers) was required in order to maintain a certificate of authority. The 1989 act gave existing certificate holders until December 31, 1992, to come into full compliance, and phased in the requirement by requiring specified annual increments.

Section 7 amends s. 624.424, relating to the annual statement. The bill requires each insurer's annual statement to contain a statement of opinion on loss and loss adjustment expense reserves made by a member of the American Academy of Actuaries or a qualified loss reserve specialist, under criteria established by rule. A similar requirement, applicable only to life insurance, is contained in s. 625.121(3). In addition, s. 625.121(14)

was created in 1991 to give the department a broad grant of rulemaking authority for standards applicable to the valuation of health plans in accordance with sound actuarial principles; this grant of authority may be construed as allowing the department to adopt, by rule, a requirement for actuarial opinions of health insurance reserves.

This section also requires that any exception to, waiver of, or interpretation of accounting requirements of the department must be in writing and signed by an authorized representative of the department. An insurer is prohibited from raising as a defense any exceptions, waivers, or interpretations of accounting requirements that do not meet this requirement. This new provision should prevent undocumented claims that waivers of accounting requirements were approved by the department, and claims based on a waiver given by a person lacking authority.

Section 8 creates s. 624.4243, relating to computation and reporting of premium growth. This section requires each insurer to calculate its annual growth in premium writings once each month. If the insurer's rate of annual premium growth exceeds 33 percent, the insurer must file a monthly informational statement with the department; the department may require the insurer to provide an explanation of its premium growth. Instead of complying with these requirements, insurers that have held a certificate of authority for less than 24 months are required to submit monthly reports of premium writings.

Section 9 amends s. 624.610, relating to reinsurance. Currently, an assuming underwriting member of an insurance exchange located outside of Florida (such as Lloyd's) is considered an approved reinsurer; the bill limits this provision to insurance exchanges that were in existence on or before January 1, 1993. The bill also requires each ceding insurer to conduct a due diligence inquiry concerning the solvency and reputation of each assuming reinsurer.

Section 10 amends s. 625.305, relating to diversification of investments. A domestic insurer or a commercially domiciled insurer is required to maintain an amount equal to its entire reserve required under Part I of Chapter 625, and its minimum surplus as to policyholders, in allowed assets and authorized investments.

Current law, last revised in 1991, limits a domestic insurer's or commercially domiciled insurer's investments in medium to lower quality securities (junk bonds and similar investments) to a maximum of 13 percent of an insurer's admitted assets, with specific lower limits for particular classes of medium to lower quality investments. An insurer that was not in compliance with these requirements on October 1, 1991, has until January 1, 1996, to come into compliance.

Currently, these restrictions may be waived by the department in writing, and the department may, until January 1, 1996, consent to acquisition of additional medium to lower quality securities by a company already exceeding the limits on such securities if

the securities are acquired as substitutions or replacements. The bill removes the power of the department to grant these waivers and consents.

Section 11 amends s. 626.7491, relating to the definition of producer-controlled business. The Business Transacted with Producer Controlled Property or Casualty Insurer Act was adopted in 1992 to regulate transactions between producer (i.e., insurance agent) controlled insurers and the controlling producer. The bill amends the definition of control for purposes of the act to create a presumption of control when a person holds or has the ability to vote 10 percent or more of the voting securities of the insurer; current law creates the presumption with respect to a majority of voting shares. The 10 percent presumption of control is consistent with other definitions of control within the Insurance Code.

Section 12 amends s. 626.918, relating to minimum surplus requirements for surplus lines insurers. A surplus lines insurer is an insurer that does not hold a Florida certificate of authority, but is eligible to write coverage in Florida when that coverage cannot be procured from authorized insurers (i.e., insurers holding certificates of authority). Surplus lines insurers are generally not regulated as to policy content or rates, and their policyholders are not entitled to guaranty fund protection in the event of the insurer's insolvency.

Currently, a surplus lines insurer is subject to the same minimum surplus requirements as authorized insurers (see the summary of sections 5 and 6, above). The bill increases the surplus requirement for surplus lines insurers to \$15 million. For a surplus lines insurer that was eligible to write coverage in Florida on January 1, 1994, and that maintained its eligibility thereafter, the bill provides a 10-year phase-in of the new requirements, requiring surplus to be increased by \$1 million a year for the first 5 years, \$1.5 million a year for the next 3 years, and \$2 million a year for the last 2 years.

There are two exceptions to these changes. Currently, a surplus lines insurer that has not held a certificate in its state of domicile for at least 3 years may become eligible in Florida only if it maintains surplus of at least \$10 million. To reflect the other changes made to this section, the bill increases this amount to \$25 million. An insurance exchange created under the laws of another state is exempt if it meets the surplus requirements of its state or if it maintains aggregate surplus of at least \$50 million. An insurance exchange is also exempt if the exchange maintains funds for the protection of all exchange policyholders, and if each individual syndicate within the exchange maintains surplus of at least \$3 million.

Section 13 creates s. 627.0629, relating to rates for residential property insurance. The section provides that, effective July 1, 1994, a rate filing must include discounts, credits, or other rate differentials for structures on which fixtures demonstrated to reduce the amount of loss in a hurricane (such as hurricane shutters) have been installed.

The section also provides that a residential property insurance rate filing may include rate factors that reflect the quality of a jurisdiction's building code and enforcement, but these rate factors must allow for individual variation based on inspection of a particular structure. The Dade County Grand Jury issued a report on December 14, 1992, that was highly critical of local building codes and the enforcement of those codes; some estimates attribute as much as 25 percent of Hurricane Andrew losses to lax building codes and enforcement.

Computer models for predicting hurricane losses have gained favor in recent years. Prior to the development of these technologies, a 30-year historical average was the most common method of predicting hurricane losses. There is no consensus, however, on which computer models are most reliable. This section requires the Department of Insurance to adopt a standard model by rule, for use by the department in evaluating catastrophic loss factors in residential property insurance rate filings. The model must be developed in accordance with accepted actuarial principles, considering insurance industry experience, scientific studies and forecasts, National Weather Service data, and other appropriate information. If an insurer uses a different model or other means to project hurricane losses, the department may require the insurer to demonstrate that the insurer's model is at least as reliable as the department's model.

Section 14 amends s. 627.351, relating to joint underwriting associations.

Windstorm insurance risk apportionment plan The bill revises provisions relating to assessments to cover deficits in the windstorm pool. The bill provides that deficit assessments are an appropriate factor in the making of rates. The bill also contains findings relating to the need for limits on assessments, stating that the potential for unlimited assessments may induce insurers to attempt to reduce their writings in the voluntary market, thereby worsening the availability problems the windstorm pool was created to remedy. The bill provides that insurers remain fully responsible for deficits, but the maximum total of deficit assessments with respect to any year is limited to 10 percent of the statewide total gross written premium for coverages subject to the pool; however, if bonds are issued to defray the deficit (see below), the maximum assessment in a year is 10 percent of the deficit and the assessments continue annually until the bonds are retired.

The bill provides that a unit of local government whose residents are insured by the windstorm pool may issue revenue bonds for the benefit of the windstorm pool to defray windstorm pool deficits. Assessments, as described above, would be pledged to retire the bonds. This is substantially similar to the method of bonding used in the December, 1992, Special Session, to cover Florida Insurance Guaranty Association (FIGA) deficits.

Florida [Commercial] Property and Casualty Joint Underwriting Association
The FPCJUA was created in 1986 to provide property and casualty coverage,

except for coverage provided by other JUAs. The FPCJUA has never been activated, except for a brief period in 1992 when the JUA was activated by emergency rule of the Insurance Department to provide coverage for unrepaired structures after Hurricane Andrew. By statute, coverage in the JUA is activated based on the number of applications for which the market assistance plan was unable to provide a quotation.

The bill provides an alternative trigger for activation of the FPCJUA: if the department finds that any line, class, or type of coverage is not available at adequate levels from authorized insurers in the state or in a particular geographic area, JUA coverage of that line, class, or type is activated. The bill also provides legislative findings to the effect that the market conditions which the JUA was intended to remedy have arisen with respect to coverage for condominium associations, apartment buildings, and other commercial coverages of residences, and it immediately activates the JUA for these coverages.

The bill requires the department to annually review the need for coverage under the JUA and authorizes deactivation of coverage. In addition, the bill calls for legislative review of the alternative trigger and the activation for residential coverage by July 1, 1996, prohibits writing residential coverage after that date, and repeals the alternative trigger on that date.

The bill also provides criteria for JUA rates for residential coverage. The rates must be actuarially sound, and must include an appropriate catastrophe factor that reflects the actual catastrophic exposure of the JUA. As soon as the JUA has developed sufficient loss experience, the rates must be based on the JUA's actual loss experience, together with the catastrophe factor.

The bill provides that FPCJUA deficit assessments are an appropriate factor in the making of rates. The bill also contains findings relating to the need for limits on assessments, stating that the potential for unlimited assessments may induce insurers to attempt to reduce their writings in the voluntary market, thereby worsening the availability problems the FPCJUA was created to remedy. The bill provides that insurers remain fully responsible for deficits, but the maximum total of deficit assessments with respect to any year is limited to 10 percent of the statewide total gross written premium for coverages subject to the FPCJUA; however, if bonds are issued to defray the deficit (see below), the maximum assessment in a year is 10 percent of the deficit and the assessments continue annually until the bonds are retired.

The bill provides that a unit of local government whose residents are insured by the FPCJUA may issue revenue bonds for the benefit of the FPCJUA to defray FPCJUA deficits. Assessments, as described above, would be pledged to retire the bonds. This is substantially similar to the method of bonding used in the

December, 1992, Special Session, to cover Florida Insurance Guaranty Association (FIGA) deficits.

Residential Property and Casualty Joint Underwriting Association The bill provides legislative intent that the rates for coverage provided by the RPCJUA be actuarially sound and that the RPCJUA function as a residual market mechanism to provide insurance only when the insurance cannot be procured in the voluntary market. Rates of the plan must be based on the JUA's actual loss experience and expenses, together with an appropriate catastrophe loading factor that reflects the JUA's actual catastrophic exposure. These rate standards replace the requirement that the rates be based on the average loss costs of the 5 largest residential insurers, plus appropriate factors for catastrophe loading, projected expenses of the plan, and a 25 percent increment for presumed adverse selection.

The bill requires the JUA to make a rate filing on March 31 and September 30 of each year. Currently, the JUA must make a rate filing no later than September 30 of each year.

The bill provides that RPCJUA deficit assessments are an appropriate factor in the making of rates. The bill also contains findings relating to the need for limits on assessments, stating that the potential for unlimited assessments may induce insurers to attempt to reduce their writings in the voluntary market, thereby worsening the availability problems the RPCJUA was created to remedy. The bill provides that insurers remain fully responsible for deficits, but the maximum total of deficit assessments with respect to any year is limited to 10 percent of the statewide total gross written premium for coverages subject to the RPCJUA; however, if bonds are issued to defray the deficit (see below), the maximum assessment in a year is 10 percent of the deficit and the assessments continue annually until the bonds are retired.

The bill provides that a unit of local government whose residents are insured by the RPCJUA may issue revenue bonds for the benefit of the RPCJUA to defray RPCJUA deficits. Assessments, as described above, would be pledged to retire the bonds. This is substantially similar to the method of bonding used in the December, 1992, Special Session, to cover Florida Insurance Guaranty Association (FIGA) deficits.

The bill provides an incentive for new insurers to enter the Florida market. It provides that the RPCJUA plan of operation must provide credits against assessments for an insurer's voluntarily written property coverage in areas of high potential hurricane losses. The credits apply only if the insurer began writing personal lines residential property coverage in Florida after the bill's effective date, and apply for a period of 3 years or until the insurer reaches a market share of 0.5 percent, whichever occurs first.

The bill adds a means for dissolution of the RPCJUA. The JUA is dissolved after a finding by the JUA board that the conditions giving rise to creation of the JUA no longer exist and Department of Insurance consent to those findings. Upon dissolution, the assets remaining after payment of the JUA's obligations will revert to the Florida Hurricane Catastrophe Fund (created by HB ____). This provision was recommended by the RPCJUA board to enable the JUA to obtain an exemption from federal taxation.

Section 15 amends s. 627.4133, relating to notice of cancellation, nonrenewal, or renewal premium. Current law is retained except for personal lines or commercial residential property insurance policies. With respect to residential policies, the bill provides for 45 days' advance notice of renewal premium, as in current law, but requires 90 days' or 180 days' advance notice of nonrenewal, cancellation, or termination, instead of the 45 days currently provided. The 90-day notice would apply if the property had not been insured under the policy for at least 5 years, and the 180-day notice would apply if the property has been covered for 5 years or more. Current provisions relating to nonpayment of premium (10 days' notice) and termination within the first 90 days of a policy (20 days' notice) are retained. If an insurer fails to timely provide the required notice, other than the 10-day notice, the policy remains in effect from the day of the notice until the end of the 20, 45, 90, or 180 day notice, respectively.

Section 16 amends s. 617.701, relating to deductibles in property insurance contracts. The section prohibits the department from approving a residential property policy form that contains deductibles applicable only to windstorm losses or deductibles measured as a percentage rather than a dollar amount unless the wording of the deductible provision is clear and unambiguous.

Section 17 creates s. 627.7011, relating to replacement cost coverage and law and ordinance coverage. The basic homeowner's policy typically provides for adjustment of claims on an "actual cash value" basis, which deducts depreciation from the value of the claim. Insurers generally also make available policies or endorsements providing for adjustment of claims on a "replacement cost" basis that does not deduct depreciation. Insurers also generally make available a policy or endorsement providing "law and ordinance" coverage that nullifies (or "buys back") policy exclusions for costs necessary to meet applicable laws regulating the construction, use, or repair of property or requiring the tearing down of property including the cost of removing its debris. When a building is required to be rebuilt, law and ordinance coverage covers the costs of assuring that the building meets all current building codes and similar requirements.

This section requires that, prior to issuing or renewing a homeowner's policy, an insurer must offer a policy or endorsement providing replacement cost coverage, and a policy or endorsement providing replacement cost coverage and law and ordinance coverage (the amount of costs to be paid under the law and ordinance coverage may be limited to 25 percent of the dwelling limit). If the insurer does not obtain the policyholder's written

refusal of both offers, the policy is deemed to include replacement cost coverage and law and ordinance coverage. The insurer is not required to make these offers with respect to the issuance or renewal of a policy that includes replacement cost coverage and law and ordinance coverage. These requirements do not apply to policies covering mobile homes, and do not restrict an insurer's ability to reject risks for particular coverages for underwriting reasons.

This section also contains a statement that it is not intended to affect any pending legal actions or to express an opinion on the issues in pending legal actions.

Section 18 creates s. 627.7012, relating to emergency adjuster pools. The section authorizes the Department of Insurance to adopt rules establishing pools of qualified adjusters. In an emergency, any insurer would be able to use pool adjusters to adjust claims in their assigned areas, but no insurer is required to use these adjusters. The rules must specify the qualifications of adjusters in the pools.

Section 19 creates s. 627.7013, relating to orderly markets for personal lines residential property insurance. The section contains legislative findings establishing the state's interest in maintaining an orderly market for personal lines residential property insurance.

The section provides for a phaseout of the moratorium on cancellation or nonrenewal of personal lines residential property insurance policies, which was enacted as part of Chapter 93-401, Laws of Florida (HB 89-B), and which expires on November 14, 1993. This section provides that, as to policies that were subject to the moratorium, an insurer may not, in any 12-month period, cancel or nonrenew more than 5 percent of its policies in the state for the purpose of reducing the insurer's exposure to hurricane claims; cancellations or nonrenewals for any other lawful reason are not affected. An insurer may obtain a waiver of the 5 percent restriction if it demonstrates to the department that cancellations or nonrenewals are necessary for the insurer to avoid an unreasonable risk of insolvency. The department has 30 days after receiving an application for waiver to notify the insurer of additional information required by the department; the insurer must provide that information within 30 days after the notice. The department must take final action on an application for waiver within 30 days after receiving the additional information (or, if no additional information was required, within 60 days after sending notice that no information was required). These time limits may not be tolled for any reason. The moratorium phaseout provisions expire on November 14, 1996.

This section also requires insurers to submit their plans for hurricane exposure reduction to the department at least 6 months prior to the first cancellation or nonrenewal under the exposure reduction plan. The department may disapprove a plan only if it finds that the plan would unreasonably destabilize the personal lines residential property insurance market. The requirement for submission of exposure reduction plans does not apply with respect to cancellations and nonrenewals allowed under the moratorium phaseout provisions.

Section 20 creates s. 627.7014, relating to geographic concentrations of property insurance risks. The section allows the department to require property insurers to develop plans for the avoidance of such concentration of property insurance exposures as would render them financially impaired in the event of a disaster. In addition, the department is required to adopt rules for the annual reporting of property exposures by geographic region and the effect of reinsurance on those exposures. If the department finds that an insurer's exposures are overly concentrated, the department may require the insurer to submit a plan to alter the geographic distribution of its exposures to an appropriate level within a reasonable period of time.

Section 21 amends s. 628.801, relating to insurance holding companies. Currently, insurance holding companies are regulated under Part III of Chapter 628, and under Chapter 4-26 of the Florida Administrative Code. The key features of holding company regulation are the filing of registration statements which include disclosures of owners, affiliates, and affiliate contracts, standards for disapproval of affiliate contracts, and notice and prior approval requirements for extraordinary dividends and distributions to shareholders and for specified transactions and arrangements. Although the statute by its terms is not limited to domestic insurers, the rules generally apply only to domestic insurers. Registration requirements do not apply to foreign insurers subject to holding company requirements substantially similar to Florida requirements; in practice, the department applies this provision to exclude all foreign insurers. Standards for transactions between affiliated entities apply only to insurers subject to registration requirements. Requirements of advance notice and prior approval of certain dividends and affiliate transactions specifically apply only to domestic insurers.

Sections 4 and 5 of the NAIC Insurance Holding Company System Regulatory Act contain further requirements. Where the current Florida rule requires one-time-only filing of registration statements, the NAIC Model Act requires annual filings. Where the rule requires the registration statement to contain "information about" specified investments, transactions, and contracts (including affiliate loans, exchanges of assets, transactions creating contingent exposure of the insurer's assets to liability, management and service contracts, cost sharing arrangements, and certain reinsurance agreements), the NAIC Model Act requires the filing of the agreements themselves as part of the registration statement.

This section of the bill requires that Florida holding company rules must include all requirements of sections 4 and 5 of the NAIC Model Act, unless in conflict with the code. The effect of this change is to require annual filing of registration statements and to require that the statements include specified agreements rather than information about those agreements. The bill also provides that the rules may include a prohibition on oral contracts between affiliates; this is intended to prevent evasion of filing requirements. In addition, this section expands applicability of the holding company provisions to all insurers domiciled in states not accredited by the NAIC.

The department is allowed to waive filing requirements for a domestic insurer that is a subsidiary of an insurer that is in full compliance with the insurance holding company laws of its state of domicile, if that state is accredited by the NAIC.

Section 22 amends s. 631.52, relating to the scope of the Florida Insurance Guaranty Association Act. The section provides that the act applies to surplus lines coverage of residential property. (For a description of surplus lines insurance, see the summary of section 12, above.)

Section 23 amends s. 631.54, relating to definitions for the Florida Insurance Guaranty Association Act. The section defines surplus lines insurers as "member insurers" for purposes of the act, but only as to residential coverage.

Section 24 amends s. 631.55, relating to the structure of the Florida Insurance Guaranty Association (FIGA). The section provides that for purposes of administration and assessment, FIGA shall be divided into 5 separate accounts: the 4 currently existing accounts and a new account for surplus lines residential coverage.

Section 25 requires the Department of Insurance to conduct a study of the appropriateness of continuing to classify condominium association master policies as commercial insurance policies. The section requires the department to make a report and recommendations to the Legislature by January 1, 1994.

Section 26 amends s. 625.330, relating to special investments by title insurers, to correct a cross-reference to s. 624.408 (minimum surplus).

Section 27 amends s. 631.011, relating to rehabilitation and liquidation, to correct a cross-reference to s. 624.408 (minimum surplus).

Section 28 provides that, except as otherwise provided in the act, the act will take effect upon becoming a law.

HCN. JOHN F. COSGROVE

HB 33C

141-324A-10-3

1	A bill to be entitled	1:btc
2	An act relating to insurance; amending s.	1.3
3	624.307, F.S.; requiring the Department of	
4	Insurance to implement a program to encourage	1.4
5	the entry of additional insurers into the	
6	Florida market; creating s. 624.3101, F.S.;	
7	prohibiting false or misleading financial	1.5
8	statements; providing penalties; creating s.	
9	624.3102, F.S.; providing immunity from civil	1.6
10	liability for persons who provide the	
11	department with certain information about	1.7
12	insurers; amending s. 624.316, F.S.; specifying	
13	frequency of examinations of insurers;	1.8
14	providing for adoption of rules; amending s.	
15	624.407, F.S.; increasing the minimum surplus	1.9
16	as to policyholders required for issuance of a	
17	certificate of authority as a property and	
18	casualty insurer; amending s. 624.408, F.S.;	1.10
19	increasing the minimum surplus as to	
20	policyholders required for maintenance of a	1.11
21	certificate of authority as a property and	
22	casualty insurer; amending s. 624.424, F.S.;	1.12
23	requiring an insurer's annual statement to	
24	include a statement of opinion on reserves;	1.13
25	limiting waivers of accounting requirements;	
26	creating s. 624.4243, F.S.; providing for	
27	computation and reporting of premium growth;	1.14
28	specifying powers of the department; amending	
29	s. 624.610, F.S.; providing criteria for	1.15
30	classification as an approved reinsurer;	
31	requiring a ceding insurer to conduct a due	1.16

1

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1	diligence inquiry with respect to an assuming	
2	reinsurer; amending s. 625.305, F.S.; removing	1.17
3	authority of the department to waive certain	
4	investment restrictions; amending s. 626.7491,	1.18
5	F.S.; specifying when an insurer is presumed to	
6	be producer-controlled; amending s. 626.918,	1.19
7	F.S.; increasing minimum surplus requirements	
8	for surplus lines insurers; creating s.	1.20
9	627.0629, F.S.; requiring residential property	
10	insurance rate filings to include rate	
11	differentials for properties on which certain	1.21
12	fixtures have been installed; authorizing such	
13	rate filings to include factors reflecting the	1.22
14	quality of particular building codes and	
15	enforcement thereof; providing for adoption and	1.23
16	use of a standard hurricane loss exposure	
17	model; amending s. 627.351, F.S.; revising	1.24
18	provisions with respect to deficit assessments	
19	in the windstorm insurance risk apportionment	1.25
20	plan; authorizing issuance of bonds on behalf	
21	of the plan; providing circumstances under	1.26
22	which a classification is immediately eligible	1.27
23	for coverage in the Florida Property and	1.28
24	Casualty Joint Underwriting Association;	
25	providing criteria for rates; activating	1.29
26	coverage with respect to commercial coverages	1.30
27	of residences; providing for legislative	
28	review; providing for termination; revising	1.31
29	provisions with respect to deficit assessments;	
30	authorizing issuance of bonds on behalf of the	1.32
31	association; providing legislative intent with	

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1	respect to the Residential Property and	1.33
2	Casualty Joint Underwriting Association;	1.34
3	providing criteria for rates; requiring rate	
4	filings; revising provisions relating to	1.35
5	deficit assessments; authorizing issuance of	
6	bonds on behalf of the association; providing	1.36
7	for dissolution of the association; amending s.	
8	627.4133, F.S.; specifying period for notice of	1.37
9	nonrenewal, renewal premium, and cancellation;	
10	amending s. 627.701, F.S.; specifying powers of	1.39
11	the department with respect to deductible	
12	provisions in certain policies; creating s.	1.40
13	627.7011, F.S.; requiring certain provisions to	
14	be offered with respect to homeowner's	
15	policies; providing for rejection or selection	1.42
16	of alternative coverages; requiring notice;	
17	creating s. 627.7012, F.S.; authorizing the	1.43
18	department to establish pools of qualified	
19	adjusters for use in emergencies; creating s.	1.44
20	627.7013, F.S.; providing findings and purpose;	
21	limiting cancellation or nonrenewal of policies	1.45
22	that were subject to the moratorium contained	
23	in ch. 93-401, Laws of Florida; providing for	1.47
24	future repeal; requiring insurers to submit	
25	exposure reduction plans to the department for	
26	approval; creating s. 627.7014, F.S.; requiring	1.48
27	insurers to implement plans for the avoidance	
28	of certain concentrations of property insurance	1.49
29	exposures; providing for reports; providing	
30	circumstances for submission of plans to the	1.50
31	department; amending s. 626.801, F.S.;	

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1	specifying content and applicability of rules	1.51
2	relating to insurance holding companies;	
3	amending s. 631.52, F.S.; specifying	1.52
4	applicability of the Florida Insurance Guaranty	
5	Association Act; amending s. 631.54, F.S.;	1.53
6	including certain surplus lines insurers as	
7	member insurers; amending s. 631.55, F.S.;	1.54
8	requiring a separate account for surplus lines	
9	insurers; requiring the Department of Insurance	1.55
10	to conduct a study of the classification of	
11	condominium association coverage; requiring	
12	reports; amending ss. 625.330 and 631.011,	1.57
13	F.S.; correcting cross references; providing	
14	effective dates.	1.58
15		
16	Be It Enacted by the Legislature of the State of Florida:	1.59
17		
18	Section 1. Subsection (7) is added to section 624.307,	1.60
19	Florida Statutes, to read:	1.61
20	624.307 General powers; duties.--	1.61
21	<u>(7) The department shall, within existing resources,</u>	1.62
22	<u>develop and implement an outreach program for the purpose of</u>	
23	<u>encouraging the entry of additional insurers into the Florida</u>	1.64
24	<u>market.</u>	
25	Section 2. Effective January 1, 1994, section	1.65
26	624.3101, Florida Statutes, is created to read:	1.66
27	<u>624.3101 False or misleading financial statements or</u>	1.68
28	<u>supporting documents; penalty.--Any person who willfully files</u>	1.68
29	<u>with the department, or who willfully signs for filing with</u>	1.69
30	<u>the department, a materially false or materially misleading</u>	
31	<u>financial statement or document in support thereof required by</u>	1.70

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1	<u>law or rule, with intent to deceive and with knowledge that</u>	
2	<u>the statement or document is materially false or materially</u>	1.71
3	<u>misleading, commits a felony of the third degree, punishable</u>	1.72
4	<u>as provided in s. 775.082, s. 775.083, or s. 775.084.</u>	1.73
5	Section 3. Section 624.3102, Florida Statutes, is	1.74
6	created to read:	
7	<u>624.3102 Immunity from civil liability for providing</u>	1.75
8	<u>department with information about condition of insurer.--A</u>	1.76
9	<u>person, other than a person filing a required report or other</u>	
10	<u>required information, who provides the department with</u>	1.77
11	<u>information about the financial condition of an insurer is</u>	1.78
12	<u>immune from civil liability arising out of the provision of</u>	
13	<u>the information unless the person acted with knowledge that</u>	1.79
14	<u>the information was false or with reckless disregard for the</u>	
15	<u>truth or falsity of the information.</u>	1.80
16	Section 4. Paragraph (a) of subsection (2) of section	1.81
17	624.316, Florida Statutes, is amended, and paragraph (e) is	1.82
18	added to said section, to read:	
19	624.316 Examination of insurers.--	1.83
20	(2)(a) <u>Except as provided in paragraph (e),</u> the	1.84
21	department may examine each insurer as often as may be	2.1
22	warranted for the protection of the policyholders and in the	2.2
23	public interest, and shall examine each domestic insurer not	2.3
24	less frequently than once every 3 years. The examination	2.5
25	shall cover the preceding 3 fiscal years of the insurer and	2.6
26	shall be commenced within 12 months after the end of the most	2.7
27	recent fiscal year being covered by the examination. The	2.9
28	examination may cover any period of the insurer's operations	2.10
29	since the last previous examination. The examination may	2.12
30	include examination of events subsequent to the end of the	2.13
31	most recent fiscal year and the events of any prior period	2.14

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141-324A-10-3

1	that affect the present financial condition of the insurer.	2.15
2	In lieu of making its own examination, the department may	2.16
3	accept an independent certified public accountant's audit	2.17
4	report prepared on a statutory basis consistent with the	
5	Florida Insurance Code on that specific company. The	2.19
6	department may not accept the report in lieu of the	
7	requirement imposed by paragraph (1)(b). When an examination	2.20
8	is conducted by the department for the sole purpose of	
9	examining the 3 preceding fiscal years of the insurer within	2.21
10	12 months after the opinion date of an independent certified	2.22
11	public accountant's audit report prepared on a statutory basis	2.23
12	on that specific company consistent with the Florida Insurance	2.24
13	Code, the cost of the examination as charged to the insurer	
14	pursuant to s. 624.320 shall be reduced by the cost to the	2.25
15	insurer of the independent certified public accountant's audit	2.26
16	reports. Requests for the reduction in cost of examination	2.27
17	must be submitted to the department in writing no later than	2.28
18	90 days after the conclusion of the examination and shall	
19	include sufficient documentation to support the charges	2.29
20	incurred for the statutory audit performed by the independent	
21	certified public accountant.	2.30
22	<u>(e)1.a. An examination under this section must be</u>	1;1us
23	<u>conducted at least once every year with respect to a domestic</u>	2.32
24	<u>insurer that has continuously held a certificate of authority</u>	
25	<u>for less than 3 years. The examination must cover the</u>	2.34
26	<u>preceding fiscal year or the period since the last examination</u>	
27	<u>of the insurer. The department may limit the scope of the</u>	2.36
28	<u>examination if the insurer has demonstrated sufficient</u>	
29	<u>compliance as determined under subparagraph 3.</u>	2.37
30		
31		

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1	<u>b. The department may not accept an independent</u>	2.38
2	<u>certified public accountant's audit report in lieu of an</u>	2.39
3	<u>examination required by this subparagraph.</u>	2.40
4	<u>c. An insurer may not be required to pay more than</u>	2.41
5	<u>\$25,000 to cover the costs of any one examination under this</u>	2.41
6	<u>subparagraph.</u>	
7	<u>2. An examination under this section must be conducted</u>	2.43
8	<u>not less frequently than once every 5 years with respect to an</u>	
9	<u>insurer that has continuously held a certificate of authority,</u>	2.44
10	<u>without a change in ownership subject to s. 624.4245 or s.</u>	2.45
11	<u>628.461, for more than 15 years and has demonstrated</u>	
12	<u>sufficient compliance as determined under subparagraph 3. The</u>	2.47
13	<u>examination must cover the preceding 5 fiscal years of the</u>	
14	<u>insurer or the period since the last examination of the</u>	2.48
15	<u>insurer. This subparagraph does not limit the ability of the</u>	2.49
16	<u>department to conduct more frequent examinations.</u>	2.50
17	<u>3. The department must, by rule, adopt procedures and</u>	2.51
18	<u>criteria for determining if an insurer has demonstrated</u>	
19	<u>sufficient compliance with this code and cooperation with the</u>	2.52
20	<u>department. The rules must include consideration of such</u>	2.53
21	<u>factors as financial strength, timeliness, consumer service,</u>	2.54
22	<u>economic and community contributions and support,</u>	
23	<u>responsiveness to department requests, and any other relevant</u>	2.55
24	<u>factors. The department must annually publish and disseminate</u>	2.56
25	<u>a listing of those insurers found to demonstrate sufficient</u>	2.57
26	<u>compliance under the rules, including special recognition for</u>	
27	<u>community contributions and support.</u>	2.58
28	Section 5. Subsection (1) of section 624.407, Florida	2.58
29	Statutes, is amended to read:	
30	624.407 Capital funds required; new insurers.--	2.59
31		

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141-324A-'0-3

1	(1) To receive authority to transact any one kind or	2.60
2	combinations of kinds of insurance, as defined in part V of	2.61
3	this chapter, an insurer hereafter applying for its original	2.63
4	certificate of authority in this state <u>after the effective</u>	2.64
5	<u>date of this section</u> shall possess surplus as to policyholders	2.65
6	not less than the greater of:	2.66
7	(a) <u>\$5,000,000 for a property and casualty insurer, or</u>	2.67
8	<u>\$2,500,000 for any other insurer;</u>	2.68
9	(b) For life insurers, 4 percent of the insurer's	2.69
10	total liabilities;	2.70
11	(c) For life and health insurers, 4 percent of the	2.71
12	insurer's total liabilities, plus 6 percent of the insurer's	2.72
13	liabilities relative to health insurance; or	
14	(d) For all insurers other than life insurers and life	2.73
15	and health insurers, 10 percent of the insurer's total	2.74
16	liabilities;	
17		
18	however, no insurer shall be required under this subsection to	2.75
19	have surplus as to policyholders greater than \$100 million.	2.76
20	Section 6. Section 624.408, Florida Statutes, is	2.77
21	amended to read:	
22	624.408 Surplus as to policyholders required; new and	2.77
23	existing insurers.--	2.78
24	(1)(a) To maintain a certificate of authority to	2.79
25	transact any one kind or combinations of kinds of insurance,	2.80
26	as defined in part V of this chapter, an insurer in this state	2.81
27	that-applied-for-its-certificate-of-authority-on-or-after-the	
28	effective-date-of-this-act shall at all times maintain surplus	2.83
29	as to policyholders not less than the greater of:	2.84
30	<u>1. 1.4e7 Except as provided in subparagraph 5. and</u>	1:1us
31	<u>paragraph (b), \$1,500,000;</u>	3.4

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1	<u>2.(b)</u> For life insurers, 4 percent of the insurer's	1:lus
2	total liabilities;	3.6
3	<u>3.(c)</u> For life and health insurers, 4 percent of the	1:lus
4	insurer's total liabilities plus 6 percent of the insurer's	3.9
5	liabilities relative to health insurance; or	
6	<u>4.(d)</u> For all insurers other than life insurers and	1:lus
7	life and health insurers, 10 percent of the insurer's total	3.12
8	liabilities.	
9	<u>5. For property and casualty insurers, \$4,000,000.</u>	1:lus
10	<u>(b) For any property and casualty insurer holding a</u>	1:lus
11	<u>certificate of authority on December 1, 1993, the following</u>	3.16
12	<u>amounts apply instead of the \$4,000,000 required by</u>	
13	<u>subparagraph (a)5.:</u>	
14	<u>1. On December 31, 1994, and until December 30, 1995,</u>	1:lus
15	<u>\$1,650,000.</u>	
16	<u>2. On December 31, 1995, and until December 30, 1996,</u>	1:lus
17	<u>\$1,800,000.</u>	
18	<u>3. On December 31, 1996, and until December 30, 1997,</u>	1:lus
19	<u>\$1,950,000.</u>	
20	<u>4. On December 31, 1997, and until December 30, 1998,</u>	1:lus
21	<u>\$2,100,000.</u>	
22	<u>5. On December 31, 1998, and until December 30, 1999,</u>	1:lus
23	<u>\$2,250,000.</u>	
24	<u>6. On December 31, 1999, and until December 30, 2000,</u>	1:lus
25	<u>\$2,500,000.</u>	
26	<u>7. On December 31, 2000, and until December 30, 2001,</u>	1:lus
27	<u>\$2,750,000.</u>	
28	<u>8. On December 31, 2001, and until December 30, 2002,</u>	1:lus
29	<u>\$3,000,000.</u>	
30	<u>9. On December 31, 2002, and until December 30, 2003,</u>	1:lus
31	<u>\$3,250,000.</u>	

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1	10. <u>On December 31, 2003, and until December 30, 2004,</u>	1:10s
2	<u>\$3,600,000.</u>	
3	11. <u>On December 31, 2004, and thereafter, \$4,000,000.</u>	1:10s
4	†2)--To maintain a certificate of authority to transact	1:10s
5	any one kind or combinations of kinds of insurance, as defined	3:29
6	in part V of this chapter, an insurer in this state that	3:30
7	applied for its certificate of authority prior to the	
8	effective date of this act shall maintain on December 31,	3:32
9	1989, and until December 31, 1990, surplus as to policyholders	
10	not less than the greater of:	3:33
11	†a)--\$1,000,000;	1:10s
12	†b)--For life insurers, 3 percent of the insurer's	3:34
13	total liabilities;	
14	†c)--For life and health insurers, 3 percent of the	1:10s
15	insurer's total liabilities plus 2 percent of the insurer's	3:36
16	liabilities relative to health insurance; or	
17	†d)--For all insurers other than life insurers and life	1:10s
18	and health insurers, 10 percent of the insurer's total	3:38
19	liabilities;	
20	†3)--To maintain a certificate of authority to transact	1:10s
21	any one kind or combinations of kinds of insurance, as defined	3:39
22	in part V of this chapter, an insurer in this state that	3:40
23	applied for its certificate of authority prior to the	
24	effective date of this act shall maintain on December 31,	3:41
25	1990, and until December 31, 1991, surplus as to policyholders	
26	not less than the greater of:	3:42
27	†a)--\$1,500,000;	1:10s
28	†b)--For life insurers, 3 1/3 percent of the insurer's	3:44
29	total liabilities;	
30		
31		

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1	(c)--For life and health insurers, 3.3 percent of the	3.45
2	insurer's total liabilities plus 4 percent of the insurer's	
3	liabilities relative to health insurance; or	3.46
4	(d)--For all insurers other than life insurers and life	3.47
5	and health insurers, 4.0 percent of the insurer's total	
6	liabilities;	3.48
7	(4)--To maintain a certificate of authority to transact	1:10s
8	any one kind or combinations of kinds of insurance, as defined	3.49
9	in part V of this chapter, an insurer in this state that	3.51
10	applied for its certificate of authority prior to the	
11	effective date of this act, shall maintain on December 31,	3.52
12	1997, and until December 31, 1992, surplus as to policyholders	
13	not less than the greater of:	3.53
14	(a)--\$7300,000;	1:10s
15	(b)--For life insurers, 3.6 percent of the insurer's	3.54
16	total liabilities;	
17	(c)--For life and health insurers, 3.6 percent of the	3.55
18	insurer's total liabilities plus 5 percent of the insurer's	
19	liabilities relative to health insurance; or	3.56
20	(d)--For all insurers other than life insurers and life	3.57
21	and health insurers, 4.0 percent of the insurer's total	
22	liabilities;	3.58
23	(5)--To maintain a certificate of authority to transact	3.59
24	any one kind or combinations of kinds of insurance, as defined	
25	in part V of this chapter, an insurer in this state that	3.60
26	applied for its certificate of authority prior to the	
27	effective date of this act, shall maintain on December 31,	3.61
28	1992, and thereafter, surplus as to policyholders not less	3.62
29	than the greater of:	
30	(a)--\$7500,000;	1:10s
31		

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1	(b)--For life insurers, 4 percent of the insurer's	3.63
2	total liabilities;	3.64
3	(c)--For life and health insurers, 4 percent of the	1:105
4	insurer's total liabilities plus 6 percent of the insurer's	3.66
5	liabilities relative to health insurance; or	
6	(d)--For all insurers other than life insurers and life	3.67
7	and health insurers, 10 percent of the insurer's total	3.68
8	liabilities;	
9	(2)(6) For purposes of this section, liabilities shall	3.69
10	not include liabilities required under s. 625.04(4). For	3.71
11	purposes of computing minimum surplus as to policyholders	
12	pursuant to s. 625.305(1), liabilities shall include	3.72
13	liabilities required under s. 625.04(4).	
14	(3)(7) No insurer shall be required under this section	1:106
15	to have surplus as to policyholders greater than \$100 million.	3.75
16	Section 7. Subsection (1) and paragraph (e) of	3.76
17	subsection (8) of section 624.424, Florida Statutes, are	3.77
18	amended to read:	
19	624.424 Annual statement and other information.--	3.78
20	(1)(a) Each authorized insurer shall file with the	3.80
21	department full and true statements of its financial	3.82
22	condition, transactions, and affairs. An annual statement	3.84
23	covering the preceding calendar year shall be filed on or	4.1
24	before March 1, and quarterly statements covering the periods	4.2
25	ending on March 31, June 30, and September 30 shall be filed	4.3
26	within 45 days after each such date. The department may, for	4.4
27	good cause, grant an extension of time for filing of an annual	4.5
28	or quarterly statement. The statements shall contain	4.6
29	information generally included in insurers' financial	4.7
30	statements prepared in accordance with generally accepted	4.8
31	insurance accounting principles and practices and in a form	4.9

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1	generally utilized by insurers for financial statements, sworn	
2	to by at least two executive officers of the insurer or, if a	4.10
3	reciprocal insurer, by the oath of the attorney in fact or its	
4	like officer if a corporation. To facilitate uniformity in	4.12
5	financial statements and to facilitate department analysis,	
6	the department may by rule adopt the form for financial	4.14
7	statements approved by the National Association of Insurance	
8	Commissioners in 1990, and may adopt subsequent amendments	4.15
9	thereto if the methodology remains substantially consistent,	4.16
10	and may by rule require each insurer to submit to the	
11	department or such organization as the department may	4.17
12	designate all or part of the information contained in the	4.18
13	financial statement in a computer-readable form compatible	4.19
14	with the electronic data processing system specified by the	4.20
15	department.	
16	<u>(b) Each insurer's annual statement must contain a</u>	1:1us
17	<u>statement of opinion on loss and loss adjustment expense</u>	4.22
18	<u>reserves made by a member of the American Academy of Actuaries</u>	
19	<u>or by a qualified loss reserve specialist, under criteria</u>	4.23
20	<u>established by rule of the department. In adopting the rule,</u>	4.24
21	<u>the department must consider any criteria established by the</u>	
22	<u>National Association of Insurance Commissioners. The</u>	4.26
23	<u>department may require semiannual updates of the annual</u>	
24	<u>statement of opinion as to a particular insurer if the</u>	4.27
25	<u>department has reasonable cause to believe that such reserves</u>	
26	<u>are understated to the extent of materially misstating the</u>	4.28
27	<u>financial position of the insurer. Workpapers in support of</u>	4.29
28	<u>the statement of opinion must be provided to the department</u>	
29	<u>upon request. This paragraph does not apply to life insurance</u>	4.30
30	<u>or title insurance.</u>	
31		

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1	(c)†b‡ The department may by rule require reports or	1:1us
2	filings required under the insurance code to be submitted on a	4.33
3	computer-diskette compatible with the electronic data	
4	processing equipment specified by the department.	4.34
5	(8)	4.35
6	(e) The department shall adopt rules to implement this	4.35
7	subsection, which rules must be in substantial conformity with	4.36
8	the 1990 Model Rule Requiring Annual Audited Financial Reports	4.37
9	adopted by the National Association of Insurance	4.38
10	Commissioners, except where inconsistent with the requirements	4.39
11	of this subsection. <u>Any exception to, waiver of, or</u>	1:1us
12	<u>interpretation of accounting requirements of the department</u>	
13	<u>must be in writing and signed by an authorized representative</u>	4.41
14	<u>of the department. No insurer may raise as a defense in any</u>	4.42
15	<u>action, any exception to, waiver of, or interpretation of</u>	
16	<u>accounting requirements, unless previously issued in writing</u>	4.43
17	<u>by an authorized representative of the department.</u>	4.44
18	Section 8. Section 624.4243, Florida Statutes, is	4.45
19	created to read:	4.46
20	<u>624.4243 Computation and reporting of premium</u>	1:1us
21	<u>growth.--</u>	
22	<u>(1) Each month, each insurer authorized to transact</u>	1:1us
23	<u>property, casualty, life, or health insurance in this state</u>	4.48
24	<u>shall make the following calculations:</u>	
25	<u>(a) For the 12-month period ending on the last day of</u>	1:1us
26	<u>the previous month, the sum of the insurer's direct and</u>	4.50
27	<u>assumed written premiums from the United States and its</u>	
28	<u>territories.</u>	4.51
29	<u>(b) For the 12-month period immediately preceding the</u>	1:1us
30	<u>12-month period specified in paragraph (a), the sum of the</u>	4.53
31		

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1	<u>insurer's direct and assumed written premiums from the United</u>	
2	<u>States and its territories.</u>	4.54
3	<u>(c) The amount by which the premiums calculated under</u>	1:1us
4	<u>paragraph (a) exceeds the premiums calculated under paragraph</u>	4.56
5	<u>(b).</u>	
6	<u>(d) The amount determined under paragraph (c) divided</u>	1:1us
7	<u>by the amount determined under paragraph (b).</u>	4.58
8	<u>(2) Until an insurer has held a certificate of</u>	1:1us
9	<u>authority in this state for 24 months, the insurer shall,</u>	4.60
10	<u>instead of making the calculations required under subsection</u>	
11	<u>(1), report to the department no later than the last day of</u>	4.61
12	<u>each month the insurer's direct and assumed written premiums</u>	4.62
13	<u>from the United States and its territories for the previous</u>	4.63
14	<u>month.</u>	
15	<u>(3) If the amount calculated by an insurer under</u>	1:1us
16	<u>paragraph (1)(d) exceeds 0.33, the insurer shall, within 30</u>	4.65
17	<u>days after the end of the 12-month period referred to in</u>	
18	<u>paragraph (1)(a), file a statement of the premium growth</u>	4.66
19	<u>calculations under this section with the department. The</u>	4.67
20	<u>department shall adopt rules specifying the form for the</u>	
21	<u>report. In response to a report under this section, the</u>	4.68
22	<u>department may require the insurer to submit an explanation of</u>	4.69
23	<u>its patterns of premium growth.</u>	
24	<u>(4) For the purposes of this section, direct and</u>	1:1us
25	<u>assumed written premiums shall be calculated under the formula</u>	4.71
26	<u>used for calculating direct and assumed written premiums for</u>	
27	<u>purposes of the insurer's annual statement under s. 624.424.</u>	4.72
28	Section 9. Paragraph (a) of subsection (2) of section	4.73
29	624.610, Florida Statutes, is amended, and subsection (13) is	4.74
30	added to said section, to read:	
31	624.610 Reinsurance.--	4.75

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1	(2)(a) If a ceding insurer reinsures all or any part	4.75
2	of any particular risk or class of risks with an approved	4.77
3	reinsurer, the ceding insurer may receive credit in accounting	
4	and financial statements on account of such reinsurance ceded.	4.78
5	An approved reinsurer is:	4.79
6	1. An assuming insurer authorized by the department to	4.80
7	transact such line of insurance or reinsurance in this state.	4.83
8	Subject to the other requirements of this code, credit may be	4.84
9	taken for reinsurance with an authorized insurer.	5.1
10	2. An assuming insurer approved by the department to	5.2
11	transact such line of reinsurance in this state. The	5.4
12	department shall approve only solvent insurers meeting the	
13	criteria established for authorized insurers in this state.	5.5
14	From time to time, the department shall publish a list of	5.6
15	insurers approved pursuant to this subsection. Subject to the	5.8
16	other requirements of this code, credit may be taken for	
17	reinsurance with an approved reinsurer.	5.9
18	3. An assuming underwriting member of an insurance	5.10
19	exchange domiciled in any other state or jurisdiction in the	5.12
20	United States, <u>which insurance exchange was licensed and in</u>	
21	<u>operation on or before January 1, 1993,</u> provided the insurance	5.13
22	exchange presents to the department for its approval, and	5.14
23	maintains, satisfactory evidence that such assuming	
24	underwriting member maintains the standards and meets the	5.15
25	financial requirements applicable to an authorized insurer.	
26	Subject to the other requirements of this section, credit may	5.16
27	be taken for reinsurance with <u>members</u> approved under this	5.17
28	subsection by the department.	
29	4. A group of individual, unincorporated, or	5.18
30	incorporated alien insurers which maintains funds in an amount	5.20
31	not less than \$50 million held in trust for United States	5.21

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1	policyholders and beneficiaries in a bank or trust company	5.22
2	that is subject to supervision by any state of the United	5.24
3	States or that is a member of the Federal Reserve System and	
4	which group satisfies the department by annually filing	5.25
5	evidence that it can meet its obligations under its	5.26
6	reinsurance agreements. Subject to the other requirements of	5.27
7	this section, credit may be taken for reinsurance with a group	
8	approved under this subsection by the department.	5.28
9	<u>(13) A ceding insurer shall conduct a due diligence</u>	1:1us
10	<u>inquiry concerning the solvency and reputation of its assuming</u>	5.30
11	<u>reinsurer prior to ceding any reinsurance to that reinsurer.</u>	5.31
12	Section 10. The introductory paragraph of subsection	5.32
13	(4), and subsections (7) and (8) of section 625.305, Florida	5.33
14	Statutes, are amended to read:	
15	625.305 Diversification.--	5.34
16	(4) Without-the-prior-written-approval-of-the	5.35
17	department, The cost of investments in bonds, debentures,	5.37
18	notes, commercial paper, or other debt obligations issued,	
19	assumed, or guaranteed by any solvent institution, and which	5.38
20	are classified as medium to lower quality obligations, other	5.39
21	than obligations of subsidiaries or related corporations as	5.40
22	that term is defined in s. 625.325, shall be limited to:	5.41
23	(7) The provisions of subsections (4), (5), and (6)	5.42
24	apply to any investment made after September 30, 1991. If an	5.46
25	insurer's investments in medium to lower quality obligations	
26	equal or exceed the maximum amounts permitted by subsection	5.47
27	(4) as of October 1, 1991, the insurer shall not acquire any	5.49
28	additional medium to lower quality obligations without-the	1:1os
29	prior-written-approval-of-the-department. An insurer that is	5.53
30	not in compliance with subsection (4) as of October 1, 1991,	5.54
31	may hold until maturity or until January 1, 1996, whichever is	5.55

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1	sooner, only those medium to lower quality obligations it owns	5.58
2	on that date if such obligations were obtained in compliance	
3	with the law in effect at the time the investments were made.	5.59
4	If the insurer sells, transfers, or otherwise disposes of such	5.60
5	securities prior to maturity, the insurer may not acquire any	5.61
6	medium to lower quality obligations as substitutions or	
7	replacements, <u>except replacement investments</u> , without the	1:10s
8	prior approval of the department. --However, the consent of the	5.64
9	department shall not be required if such replacement	
10	investment is acquired for the purpose of supporting an	5.65
11	unexpired life insurance or annuity product liability <u>if</u> and	5.67
12	the insurer has filed with the department a schedule of such	5.68
13	liabilities supported by the medium to lower quality	5.69
14	investments. An insurer that is not in compliance with	5.71
15	subsection (4) on December 31, 1991, shall file with its	5.73
16	annual statement a separate schedule of the medium to lower	5.74
17	quality obligations it owns on December 31, 1991. Until it is	5.76
18	in compliance with subsection (4), the insurer shall file with	
19	each succeeding annual and quarterly statement a separate	5.77
20	schedule of the medium to lower quality obligations it owns as	
21	of the reporting date of the filed statement.	5.79
22	(8) Petition to obtain the prior written approval of	5.80
23	the department shall result in Any investments in excess of	5.82
24	those permitted by subsection (4) <u>are</u> not being allowed as an	1:10s
25	asset of the insurer.	5.84
26	Section 11. Paragraph (b) of subsection (2) of section	6.1
27	626.7491, Florida Statutes, is amended to read:	6.2
28	626.7491 Business transacted with producer controlled	6.4
29	property and casualty insurer.--	
30	(2) DEFINITIONS.--As used in this section:	6.6
31		

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1	(b) "Control" or "controlled" means the possession,	6.8
2	direct or indirect, of the power to direct or cause the	6.9
3	direction of the management and policies of a person, whether	6.10
4	through the ownership of voting securities, by contract other	6.11
5	than a contract for goods or nonmanagement services, or	
6	otherwise. Control shall be presumed to exist if any person,	6.13
7	directly or indirectly, owns, controls, holds with the power	6.14
8	to vote, or holds proxies representing <u>10 percent or more a</u>	6.15
9	majority of the outstanding voting securities of any other	6.16
10	person. No person shall be deemed to control another person	6.20
11	solely by reason of being an officer or director of such other	6.21
12	person.	
13	Section 12. Paragraphs (b) and (d) of subsection (2)	6.22
14	of section 626.918, Florida Statutes, are amended to read:	6.23
15	626.918 Eligible surplus lines insurers.--	6.25
16	(2) No unauthorized insurer shall be or become an	6.27
17	eligible surplus lines insurer unless made eligible by the	6.28
18	department in accordance with the following conditions:	6.29
19	(b) The insurer must be currently an authorized	6.31
20	insurer in the state or country of its domicile as to the kind	6.33
21	or kinds of insurance proposed to be so placed and must have	6.34
22	been such an insurer for not less than the 3 years next	
23	preceding or must be the wholly owned subsidiary of such	6.35
24	authorized insurer or must be the wholly owned subsidiary of	6.37
25	an already eligible surplus lines insurer as to the kind or	6.38
26	kinds of insurance proposed for a period of not less than the	6.39
27	3 years next preceding. However, the department may waive the	6.40
28	3-year requirement if the insurer provides a product or	
29	service not readily available to the consumers of this state	6.41
30	or has operated successfully for a period of at least 1 year	6.42
31		

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1	next preceding and has capital and surplus of not less than	6.43
2	<u>\$25 \$+0 million;</u>	6.44
3	(d)1. The insurer must have <u>and maintain</u> surplus as to	6.45
4	policyholders of not less than <u>\$15 million</u> the amount required	6.47
5	under this code for a like authorized insurer; or, if an alien	
6	insurer, must have and maintain in the United States a trust	6.48
7	fund for the protection of all its policyholders in the United	6.49
8	States under terms deemed by the department to be reasonably	6.50
9	adequate, in an amount <u>not less than \$15 million</u> equal to the	6.51
10	capital and surplus required of authorized insurers. Any such	6.53
11	surplus as to policyholders or trust fund shall be represented	6.54
12	by investments consisting of eligible investments for like	
13	funds of like domestic insurers under part II of chapter 625;	6.57
14	<u>2. For those surplus lines insurers that were eligible</u>	1:1us
15	<u>on January 1, 1994, and that maintained their eligibility</u>	6.59
16	<u>thereafter, the required surplus as to policyholders shall be:</u>	6.60
17	<u>a. On December 31, 1994, and until December 30, 1995,</u>	1:1us
18	<u>\$2,500,000.</u>	6.61
19	<u>b. On December 31, 1995, and until December 30, 1996,</u>	1:1us
20	<u>\$3,500,000.</u>	6.62
21	<u>c. On December 31, 1996, and until December 30, 1997,</u>	1:1us
22	<u>\$4,500,000.</u>	6.63
23	<u>d. On December 31, 1997, and until December 30, 1998,</u>	1:1us
24	<u>\$5,500,000.</u>	6.64
25	<u>e. On December 31, 1998, and until December 30, 1999,</u>	1:1us
26	<u>\$6,500,000.</u>	6.65
27	<u>f. On December 31, 1999, and until December 30, 2000,</u>	1:1us
28	<u>\$8,000,000.</u>	6.66
29	<u>g. On December 31, 2000, and until December 30, 2001,</u>	1:1us
30	<u>\$9,500,000.</u>	6.67
31		

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1	<u>h. On December 31, 2001, and until December 30, 2002,</u>	1:1us
2	<u>\$11,000,000.</u>	6.68
3	<u>i. On December 31, 2002, and until December 30, 2003,</u>	1:1us
4	<u>\$13,000,000.</u>	6.69
5	<u>j. On December 31, 2003, and thereafter, \$15,000,000.</u>	6.70
6	<u>3. The capital and surplus requirements as set forth</u>	1:1us
7	<u>in subparagraph 2. do not apply in the case of an insurance</u>	6.71
8	<u>exchange created by the laws of individual states, where the</u>	6.72
9	<u>exchange maintains capital and surplus pursuant to the</u>	
10	<u>requirements of that state, or maintains capital and surplus</u>	6.73
11	<u>in an amount not less than \$50 million in the aggregate. For</u>	6.74
12	<u>an insurance exchange which maintains funds for the protection</u>	
13	<u>of all insurance exchange policyholders, each individual</u>	6.75
14	<u>syndicate shall maintain minimum capital and surplus in an</u>	
15	<u>amount not less than \$3 million. If the insurance exchange</u>	6.77
16	<u>does not maintain funds for the protection of all insurance</u>	
17	<u>exchange policyholders, each individual syndicate shall meet</u>	6.78
18	<u>the minimum capital and surplus requirements set forth in</u>	6.79
19	<u>subparagraph 2.</u>	
20	Section 13. Section 627.0629, Florida Statutes, is	6.80
21	created to read:	6.81
22	<u>627.0629 Residential property insurance; rate</u>	1:1us
23	<u>filings.--</u>	6.82
24	<u>(1) Effective July 1, 1994, a rate filing for</u>	1:1us
25	<u>residential property insurance must include appropriate</u>	6.84
26	<u>discounts, credits, or other rate differentials for properties</u>	
27	<u>on which fixtures actuarially demonstrated to reduce the</u>	7.1
28	<u>amount of loss in a windstorm have been installed.</u>	7.2
29	<u>(2) A rate filing for residential property insurance</u>	1:1us
30	<u>may include rate factors that reflect the quality of a</u>	7.4
31	<u>building code of a particular jurisdiction and the quality of</u>	

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1	<u>enforcement of that code; however, such a rate filing must</u>	7.5
2	<u>also provide for variations from such rate factors based on</u>	7.6
3	<u>the results of an inspection of a particular structure.</u>	7.7
4	(3) <u>The department shall adopt by rule a standard</u>	1:1us
5	<u>hurricane loss exposure model, for use by the department in</u>	7.8
6	<u>evaluating catastrophic loss factors in residential property</u>	7.9
7	<u>insurance rate filings. The model shall be developed in</u>	7.10
8	<u>accordance with accepted actuarial principles and</u>	
9	<u>consideration of experience in the insurance industry;</u>	7.11
10	<u>scientific studies, forecasts, predictions, models; data of</u>	
11	<u>the National Weather Service and other credible independent</u>	7.12
12	<u>research organizations; and such other information appropriate</u>	7.13
13	<u>to designing a model that will provide reliable predictions of</u>	
14	<u>hurricane loss exposures. If an insurer uses a different</u>	7.15
15	<u>model or other means for projecting hurricane losses, the</u>	
16	<u>department may require the insurer to demonstrate that the</u>	7.16
17	<u>model or other means used by the insurer is at least as</u>	7.17
18	<u>reliable as the standard model.</u>	
19	Section 14. Subsections (2), (5), and (6) of section	7.19
20	627.351, Florida Statutes, are amended to read:	
21	627.351 Insurance risk apportionment plans.--	7.21
22	(2) WINDSTORM INSURANCE RISK APPORTIONMENT.--	7.23
23	(a) Agreements may be made among property insurers	7.25
24	with respect to the equitable apportionment among them of	7.26
25	insurance which may be afforded applicants who are in good	7.27
26	faith entitled to, but are unable to procure, such insurance	7.28
27	through ordinary methods; and such insurers may agree among	
28	themselves on the use of reasonable rate modifications for	7.29
29	such insurance. Such agreements and rate modifications shall	7.31
30	be subject to the applicable provisions of this chapter.	7.32
31		

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1	(b) The department shall require all insurers licensed	7.34
2	to transact property insurance on a direct basis in this state	7.35
3	to provide windstorm coverage to applicants from areas	7.36
4	determined to be eligible pursuant to paragraph (c) who in	7.37
5	good faith are entitled to, but are unable to procure, such	7.39
6	coverage through ordinary means; or it shall adopt a	7.40
7	reasonable plan or plans for the equitable apportionment or	7.41
8	sharing among such insurers of windstorm coverage. The	7.43
9	commissioner shall promulgate rules which provide a formula	
10	for the recovery and repayment of any deferred assessments.	7.45
11	1. For the purpose of this section, properties	7.46
12	eligible for such windstorm coverage are defined as dwellings,	7.49
13	buildings, and other structures, including mobile homes which	7.50
14	are used as dwellings and which are tied down in compliance	
15	with mobile home tie-down requirements prescribed by the	7.52
16	Department of Highway Safety and Motor Vehicles pursuant to s.	7.54
17	320.6325, and the contents of all such properties.	7.55
18	<u>2.a.</u> All insurers required to be members of such plan	7.57
19	shall participate in its writings, expenses, profits, and	7.58
20	losses. Such gross participation shall be in the proportion	7.60
21	that the net direct premiums of each member written on	7.61
22	property in this state during the preceding calendar year bear	7.62
23	to the aggregate net direct premiums of all members of the	7.64
24	plan written on property in this state during the preceding	7.65
25	calendar year. The commissioner, after review of annual	7.67
26	statements, other reports, and any other statistics which he	7.68
27	deems necessary, shall certify to the plan the aggregate net	7.70
28	direct premiums written on property in this state by all	7.71
29	members. The plan of operation shall provide that one	7.72
30	additional domestic member of the board of directors be	7.73
31	elected by the domestic companies of this state on the basis	

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1	of cumulative weighted voting based on the net written	7.75
2	premiums of domestic companies in this state. Any such plan	7.76
3	shall provide a formula whereby a company voluntarily	7.77
4	providing windstorm coverage in affected areas will be	7.78
5	relieved wholly or partially from apportionment. A company	7.80
6	which is a member of a group of companies under common	7.81
7	management may elect to have its credits applied on a group	7.83
8	basis, and any company or group may elect to have its credits	8.1
9	applied to any other company or group.	
10	<u>b. Assessments to pay deficits in the plan under this</u>	1:1us
11	<u>subparagraph shall be included as an appropriate factor in the</u>	8.4
12	<u>making of rates.</u>	8.5
13	<u>c. The Legislature finds that the potential for</u>	1:1us
14	<u>unlimited deficit assessments under this subparagraph may</u>	8.7
15	<u>induce insurers to attempt to reduce their writings in the</u>	
16	<u>voluntary market, and that such actions would worsen the</u>	8.9
17	<u>availability problems that the plan was created to remedy. It</u>	8.10
18	<u>is the intent of the Legislature that insurers remain fully</u>	
19	<u>responsible for covering any deficits of the plan; however, it</u>	8.11
20	<u>is also the intent of the Legislature to provide a means by</u>	8.12
21	<u>which assessment liabilities may be amortized over a period of</u>	
22	<u>years.</u>	
23	<u>d. The total amount of deficit assessments under this</u>	8.13
24	<u>subparagraph with respect to any year may not exceed 10</u>	8.14
25	<u>percent of the statewide total gross written premium for all</u>	8.15
26	<u>insurers for the coverages referred to in paragraph (b) for</u>	8.16
27	<u>the prior year, except that if the deficit with respect to any</u>	
28	<u>plan year exceeds such amount and bonds are issued under sub-</u>	8.19
29	<u>subparagraph e. to defray the deficit, the total amount of</u>	
30	<u>assessments with respect to such deficit may not in any year</u>	8.21
31		

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1	<u>exceed 10 percent of the deficit and shall continue annually</u>	
2	<u>until the bonds are retired.</u>	8.22
3	<u>e. The governing body of any unit of local government,</u>	1:1us
4	<u>any residents of which are insured under the plan, may issue</u>	8.24
5	<u>bonds as defined in s. 166.101 from time to time to fund an</u>	
6	<u>assistance program, in conjunction with the plan, for the</u>	8.25
7	<u>purpose of defraying deficits of the plan. The unit of local</u>	8.27
8	<u>government shall enter into such contracts with the plan as</u>	
9	<u>are necessary to carry out this paragraph. Any bonds issued</u>	8.29
10	<u>under this sub-subparagraph shall be payable from and secured</u>	
11	<u>by moneys received by the plan from assessments under this</u>	8.30
12	<u>subparagraph, and assigned and pledged to or on behalf of the</u>	8.31
13	<u>unit of local government for the benefit of the holders of</u>	
14	<u>such bonds. The funds, credit, property, and taxing power of</u>	8.32
15	<u>the state or of the unit of local government shall not be</u>	8.33
16	<u>pledged for the payment of such bonds.</u>	
17	3. The plan shall also provide that any member with a	8.36
18	surplus as to policyholders of \$20,000,000 or less writing 25	8.38
19	percent of its total countrywide property insurance premiums	
20	in this state may petition the department, within 90 days of	8.39
21	the effective date of chapter 76-96, Laws of Florida, and	8.40
22	thereafter within the first 90 days of each calendar year, to	8.41
23	qualify as a limited apportionment company. The apportionment	8.43
24	of such a company in any calendar year for which it is	8.44
25	qualified shall not exceed its gross participation, which	8.45
26	shall not be affected by the formula for voluntary writings.	8.46
27	In no event shall a limited apportionment company be required	8.48
28	to participate in any apportionment of losses in the aggregate	8.49
29	which exceeds \$50,000,000 after payment of available plan	8.50
30	funds in any calendar year. The plan shall provide that, if	8.53
31	the department determines that any assessment will result in	8.54

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1	an impairment of the surplus of a limited apportionment	
2	company, the department may direct that all or part of such	8.55
3	assessment be deferred.	8.56
4	4. The plan shall provide for the deferment, in whole	8.58
5	or in part, of the assessment of a member insurer if, in the	8.61
6	opinion of the commissioner, payment of the assessment would	
7	endanger or impair the solvency of the member insurer. In the	8.63
8	event an assessment against a member insurer is deferred in	
9	whole or in part, the amount by which such assessment is	8.65
10	deferred may be assessed against the other member insurers in	
11	a manner consistent with the basis for assessments set forth	8.67
12	in subparagraph 2.	
13	5. The plan may include deductibles and rules for	8.68
14	classification of risks and rate modifications consistent with	8.72
15	the objective of providing and maintaining funds sufficient to	8.74
16	pay catastrophe losses.	
17	6. The plan may authorize the formation of a private	8.78
18	nonprofit corporation, a private nonprofit unincorporated	
19	association, or a nonprofit mutual company which may be	8.80
20	empowered, among other things, to borrow money and to	8.81
21	accumulate reserves or funds to be used for the payment of	8.82
22	insured catastrophe losses. The plan shall incorporate and	8.83
23	continue the plan of operation and articles of agreement in	9.1
24	effect on the effective date of chapter 76-96, Laws of	9.2
25	Florida, to the extent that it is not inconsistent with	9.4
26	chapter 76-96, Laws of Florida, and as subsequently modified	
27	consistent with chapter 76-96, Laws of Florida. The board of	9.6
28	directors and officers currently serving shall continue to	9.8
29	serve until their successors are duly qualified as provided	9.9
30	under the plan. The assets and obligations of the plan in	9.11
31	effect immediately prior to the effective date of chapter 76-	9.12

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1	96, Laws of Florida, shall be construed to be the assets and	9.14
2	obligations of the successor plan created herein.	
3	7. On such coverage, an agent's remuneration shall be	9.18
4	that amount of money payable to him by the terms of his	9.19
5	contract with the company with which the business is placed.	9.21
6	However, no commission will be paid on that portion of the	9.23
7	premium which is in excess of the standard premium of that	9.24
8	company.	
9	(c) The provisions of paragraph (b) are applicable	9.25
10	only with respect to:	9.26
11	1. Those areas that were eligible for coverage under	9.27
12	this subsection on April 9, 1993; or	9.28
13	2. Any county or area as to which the department,	9.29
14	after public hearing, finds that the following criteria exist:	9.30
15	a. Due to the lack of windstorm insurance coverage in	9.32
16	the county or area so affected, economic growth and	9.33
17	development is being deterred or otherwise stifled in such	
18	county or area, mortgages are in default, and financial	9.34
19	institutions are unable to make loans;	
20	b. The county or area so affected has adopted and is	9.36
21	enforcing the structural requirements of the State Minimum	9.37
22	Building Codes, as defined in s. 553.73, for new construction	
23	and has included adequate minimum floor elevation requirements	9.39
24	for structures in areas subject to inundation; and	9.40
25	c. Extending windstorm insurance coverage to such	9.41
26	county or area is consistent with and will implement and	9.43
27	further the policies and objectives set forth in applicable	
28	state laws, rules, and regulations governing coastal	9.44
29	management, coastal construction, comprehensive planning,	
30	beach and shore preservation, barrier island preservation,	9.45
31		

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1	coastal zone protection, and the Coastal Zone Protection Act	9.46
2	of 1985.	
3		
4	Any time after the department has determined that the criteria	9.48
5	referred to in this subparagraph do not exist with respect to	9.49
6	any county or area of the state, it may, after a subsequent	9.50
7	public hearing, declare that such county or area is no longer	
8	eligible for windstorm coverage through the plan.	9.51
9	(5) PROPERTY AND CASUALTY INSURANCE RISK	9.53
10	APPORTIONMENT.--The department shall adopt by rule a joint	
11	underwriting plan to equitably apportion among insurers	9.55
12	authorized in this state to write property insurance as	
13	defined in s. 624.604 or casualty insurance as defined in s.	9.56
14	624.605, the underwriting of one or more classes of property	9.57
15	insurance or casualty insurance, except for the types of	9.58
16	insurance that are included within property insurance or	9.60
17	casualty insurance for which an equitable apportionment plan,	9.61
18	assigned risk plan, or joint underwriting plan is authorized	9.62
19	under s. 627.311 or subsection (1), subsection (2), subsection	
20	(3), or subsection (4) of this section and except for risks	9.64
21	eligible for flood insurance written through the federal flood	
22	insurance program to persons with risks eligible under	9.65
23	subparagraph (a)1. and who are in good faith entitled to, but	9.67
24	are unable to, obtain such property or casualty insurance	9.68
25	coverage, including excess coverage, through the voluntary	
26	market. For purposes of this subsection, an adequate level of	9.70
27	coverage means that coverage which is required by state law or	9.72
28	by responsible or prudent business practices. The Joint	9.74
29	Underwriting Association shall not be required to provide	
30	coverage for any type of risk for which there are no insurers	9.75
31	providing similar coverage in this state. The department may	9.76

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1	designate one or more participating insurers who agree to	
2	provide policyholder and claims service, including the	9.77
3	issuance of policies, on behalf of the participating insurers.	9.78
4	(a) The plan shall provide:	9.79
5	1. A means of establishing eligibility of a risk for	9.80
6	obtaining insurance through the plan, which provides that:	9.81
7	a. A risk shall be eligible for such property	9.82
8	insurance or casualty insurance as is required by Florida law	9.83
9	if the insurance is unavailable in the voluntary market,	
10	including the market assistance program and the surplus lines	9.84
11	market.	
12	b. A commercial risk not eligible under sub-	10.1
13	subparagraph a. shall be eligible for property or casualty	10.2
14	insurance if:	
15	(I) The insurance is unavailable in the voluntary	10.3
16	market, including the market assistance plan and the surplus	10.4
17	lines market;	
18	(II) Failure to secure the insurance would	10.5
19	substantially impair the ability of the entity to conduct its	10.6
20	affairs; and	
21	(III) The risk is not determined by the Risk	10.7
22	Underwriting Committee to be uninsurable.	10.8
23	c. In the event the Federal Government terminates the	10.9
24	Federal Crime Insurance Program established under Title 44,	10.10
25	Code of Federal Regulations, ss. 80-83, Florida commercial and	10.11
26	residential risks previously insured under the federal program	10.12
27	shall be eligible under the plan.	10.13
28	d. <u>(I)</u> In the event a risk is eligible under this	10.14
29	paragraph and in the event the market assistance plan receives	10.16
30	a minimum of 100 applications for coverage within a 3-month	
31	period, or 200 applications for coverage within a 1-year	10.17

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1	period or less, for a given class of risk contained in the	10.18
2	classification system defined in the plan of operation of the	
3	Joint Underwriting Association, and unless the market	10.19
4	assistance plan provides a quotation for at least 80 percent	10.20
5	of such applicants, such classification shall immediately be	10.21
6	eligible for coverage in the Joint Underwriting Association.	10.22
7	Provided, however,	10.23
8	<u>(II) As an alternative to the procedure specified in</u>	10.24
9	<u>sub-sub-subparagraph (I), a classification is immediately</u>	
10	<u>eligible for coverage if the risk is eligible under this</u>	10.25
11	<u>paragraph and if the department determines, after consulting</u>	
12	<u>with the insurers authorized to write property and casualty</u>	10.26
13	<u>insurance in this state, that any class, line, or type of</u>	
14	<u>coverage of property or casualty insurance is not available at</u>	10.27
15	<u>adequate levels from insurers authorized to transact and</u>	10.28
16	<u>actually write that kind and class of insurance in this state</u>	
17	<u>or in a particular geographic area. This sub-sub-subparagraph</u>	10.30
18	<u>is repealed on July 1, 1996.</u>	
19	<u>(III) Any market assistance plan application which is</u>	10.32
20	rejected because an individual risk is so hazardous as to be	10.33
21	practically uninsurable, considering whether the likelihood of	
22	a loss for such a risk is substantially higher than for other	10.34
23	risks of the same class due to individual risk	10.35
24	characteristics, prior loss experience, unwillingness to	
25	cooperate with a prior insurer, physical characteristics and	10.36
26	physical location shall not be included in the minimum	
27	percentage calculation provided above. In the event that	10.38
28	there is any legal or administrative challenge to a	
29	determination by the department that the conditions of this	10.39
30	subparagraph have been met for eligibility for coverage in the	10.40
31	Joint Underwriting Association for a given classification, any	

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1	eligible risk may obtain coverage during the pendency of any	10.4
2	such challenge.	
3	<u>e.</u> In order to qualify as a quotation for the purpose	1:1us
4	of meeting the minimum percentage calculation in this	10.44
5	subparagraph, the quoted premium must meet the following	
6	criteria:	
7	(I) In the case of an admitted carrier, the quoted	10.45
8	premium must not exceed the premium available for a given	10.46
9	classification currently in use by the Joint Underwriting	
10	Association or the premium developed by using the rates and	10.47
11	rating plans on file with the department by the quoting	10.48
12	insurer, whichever is greater.	
13	(II) In the case of an authorized surplus lines	10.49
14	insurer, the quoted premium must not exceed the premium	10.50
15	available for a given classification currently in use by the	
16	Joint Underwriting Association by more than 25 percent, after	10.51
17	consideration of any individual risk surcharge or credit.	10.52
18	<u>f.e.r</u> Any agent who falsely certifies the	1:1us
19	unavailability of coverage as provided by sub-subparagraphs a.	10.56
20	and b., is subject to the penalties provided in s. 626.611.	
21	<u>g.(I) The Legislature finds that the market conditions</u>	1:1us
22	<u>which this subsection is intended to remedy have arisen with</u>	10.58
23	<u>respect to coverage for condominium associations, apartment</u>	
24	<u>buildings, and other commercial coverages of residences.</u>	10.59
25	<u>Therefore, coverage under this subsection is hereby activated</u>	10.60
26	<u>for condominium associations, apartment buildings, and other</u>	10.61
27	<u>commercial coverages of residences. Such coverage shall</u>	10.62
28	<u>continue to be provided under this subsection until coverage</u>	
29	<u>is deactivated pursuant to sub-sub-subparagraph (II) or sub-</u>	10.63
30	<u>sub-subparagraph (III).</u>	
31		

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1	<u>(II) The board shall, at least annually, review the</u>	10.65
2	<u>need for coverage under this subsection. Upon recommendation</u>	10.66
3	<u>by the board or any other interested party, the department may</u>	
4	<u>deactivate coverage if the department finds that the</u>	10.67
5	<u>conditions giving rise to activation no longer exist.</u>	10.68
6	<u>(III) It is the intent of the Legislature that</u>	11.15
7	<u>activation of coverage pursuant to sub-sub-subparagraph (I)</u>	10.69
8	<u>and the alternative means for activation specified in sub-sub-</u>	10.70
9	<u>subparagraph d.(II) be reviewed by the Legislature prior to</u>	
10	<u>July 1, 1996. No policies may be written pursuant to sub-sub-</u>	10.71
11	<u>subparagraph (I) after July 1, 1996. Sub-sub-subparagraph</u>	10.72
12	<u>d.(II) is repealed on July 1, 1996.</u>	
13	2. A means for the equitable apportionment of profits	10.73
14	or losses and expenses among participating insurers.	10.74
15	3. Rules for the classification of risks and rates	10.75
16	which reflect the past and prospective loss experience.	10.76
17	4. A rating plan which reasonably reflects the prior	10.77
18	claims experience of the insureds. Such rating plan shall	10.79
19	include at least two levels of rates for risks that have	
20	favorable loss experience and risks that have unfavorable loss	10.80
21	experience, as established by the plan.	10.81
22	5. Reasonable limits to available amounts of	10.82
23	insurance. Such limits may not be less than the amounts of	10.83
24	insurance required of eligible risks by Florida law.	10.84
25	6. Risk management requirements for insurance where	11.1
26	such requirements are reasonable and are expected to reduce	11.3
27	losses.	
28	7. Deductibles as may be necessary to meet the needs	11.4
29	of insureds.	
30		
31		

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1	8. Policy forms which are consistent with the forms in	11.5
2	use by the majority of the insurers providing coverage in the	11.6
3	voluntary market for the coverage requested by the applicant.	11.7
4	9. A means to remove risks from the plan once such	11.8
5	risks no longer meet the eligibility requirements of this	11.10
6	paragraph. For this purpose, the plan shall include the	11.11
7	following requirements: At each 6-month interval after the	11.13
8	activation of any class of insureds, the board of governors or	
9	its designated committee shall review the number of	11.14
10	applications to the market assistance plan for that class.	
11	If, based on these latest numbers, at least 90 percent of such	11.15
12	applications have been provided a quotation, the Joint	11.16
13	Underwriting Association shall cease underwriting new	
14	applications for such class within 30 days, and notification	11.17
15	of this decision shall be sent to the Insurance Commissioner,	11.18
16	the major agents' associations, and the board of directors of	11.19
17	the market assistance plan. A quotation for the purpose of	11.20
18	this subparagraph shall meet the same criteria for a quotation	
19	as provided in sub-subparagraph d. All policies which were	11.23
20	previously written for that class shall continue in force	
21	until their normal expiration date, at which time, subject to	11.24
22	the required timely notification of nonrenewal by the Joint	11.25
23	Underwriting Association, the insured may then elect to	
24	reapply to the Joint Underwriting Association according to the	11.26
25	requirements of eligibility. If, upon reapplication, those	11.27
26	previously insured Joint Underwriting Association risks meet	
27	the eligibility requirements, the Joint Underwriting	11.28
28	Association shall provide the coverage requested.	11.29
29	10. A means for providing credits to insurers against	11.30
30	any deficit assessment levied pursuant to paragraph (c), for	11.32
31		

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1	risks voluntarily written through the market assistance plan	
2	by such insurers.	11.33
3	11. That the Joint Underwriting Association shall	11.34
4	operate subject to the supervision and approval of a board of	11.35
5	governors consisting of 13 individuals appointed by the	
6	Insurance Commissioner, and shall have an executive or	11.36
7	underwriting committee. At least four of the members shall be	11.37
8	representatives of insurance trade associations as follows:	11.38
9	one member from the American Insurance Association, one member	11.39
10	from the Alliance of American Insurers, one member from the	11.40
11	National Association of Independent Insurers, and one member	11.41
12	from an unaffiliated insurer writing coverage on a national	11.42
13	basis. Two representatives shall be from two of the statewide	11.43
14	agents' associations. Each board member shall be appointed to	11.44
15	serve for 2-year terms beginning on a date designated by the	11.45
16	plan and shall serve at the pleasure of the commissioner.	
17	Members may be reappointed for subsequent terms.	11.46
18	(b)1. <u>With respect to coverage of residential</u>	11.47
19	<u>structures, it is the intent of the Legislature that the rates</u>	11.48
20	<u>for coverage provided by the association be actuarially sound</u>	
21	<u>and that the association function as a residual market</u>	11.49
22	<u>mechanism to provide insurance only when the insurance is</u>	11.50
23	<u>unavailable in the voluntary market. Rates shall include an</u>	11.51
24	<u>appropriate catastrophe factor that reflects the actual</u>	
25	<u>catastrophic exposure of the association. As soon as the</u>	11.53
26	<u>association has developed sufficient loss experience, rates of</u>	
27	<u>the association shall be based on the association's actual</u>	11.54
28	<u>loss experience and expenses, together with such catastrophe</u>	
29	<u>loading factor.</u>	11.55
30	2. <u>This subparagraph applies to any coverage other</u>	11.56
31	<u>than coverage of residential structures. Rates used by the</u>	11.57

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1	Joint Underwriting Association shall be actuarially sound. To	11.58
2	the extent applicable, the rate standards set forth in s.	
3	627.062 shall be considered by the department in establishing	11.59
4	rates to be used by the joint underwriting plan. The initial	11.60
5	rate level shall be determined using the rates, rules, rating	
6	plans, and classifications contained in the most current	11.61
7	Insurance Services Office (ISO) filing with the department or	11.62
8	the filing of other licensed rating organizations with an	
9	additional increment of 25 percent of premium. For any type	11.64
10	of coverage or classification which lends itself to manual	
11	rating for which Insurance Services Office or another licensed	11.66
12	rating organization does not file or publish a rate, the Joint	
13	Underwriting Association shall file and use an initial rate	11.67
14	based on the average current market rate. The initial rate	11.69
15	level for the rate plan shall also be subject to an experience	
16	and schedule rating plan which may produce a maximum of 25	11.70
17	percent debits or credits. For any risk which does not lend	11.71
18	itself to manual rating and for which no rate has been	
19	promulgated under the rate plan, the board shall develop and	11.72
20	file with the commissioner, subject to his approval,	11.73
21	appropriate criteria and factors for rating the individual	
22	risk. Such criteria and factors shall include, but not be	11.74
23	limited to, loss rating plans, composite rating plans, and	11.75
24	unique and unusual risk rating plans. The initial rates	11.76
25	required under this paragraph shall be adjusted in conformity	
26	with future filings by the Insurance Services Office with the	11.78
27	department and shall remain in effect until such time as the	11.79
28	Joint Underwriting Association has sufficient data as to	
29	independently justify an actuarially sound change in such	11.80
30	rates.	
31		

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1 (c)1. In the event an underwriting deficit exists for 11.8
 2 any policy year the plan is in effect, any surplus which has 11.82
 3 accrued from previous years and is not projected within
 4 reasonable actuarial certainty to be needed for payment for 11.83
 5 claims in the year the surplus arose shall be used to offset 11.84
 6 the deficit to the extent available.

7 2. As to any remaining deficit, the Board of Governors 12.2
 8 of the Joint Underwriting Association shall levy and collect
 9 an assessment in an amount sufficient to offset such deficit. 12.3
 10 Such assessment shall be levied against the insurers 12.4
 11 participating in the plan during the year giving rise to the 12.6
 12 assessment. Any assessments against insurers for the lines of 12.7
 13 property and casualty insurance issued to commercial risks 12.8
 14 shall be recovered from the participating insurers in the
 15 proportion that the net direct premium of each insurer for 12.9
 16 commercial risks written during the preceding calendar year
 17 bears to the aggregate net direct premium written for 12.10
 18 commercial risks by all members of the plan for the lines of 12.11
 19 insurance included in the plan. Any assessments against 12.12
 20 insurers for the lines of property and casualty insurance
 21 issued to personal risks eligible under sub-subparagraph 12.13
 22 (a)1.a. or sub-subparagraph (a)1.c. shall be recovered from 12.14
 23 the participating insurers in the proportion that the net 12.15
 24 direct premium of each insurer for personal risks written 12.16
 25 during the preceding calendar year bears to the aggregate net 12.17
 26 direct premium written for personal risks by all members of
 27 the plan for the lines of insurance included in the plan. 12.18
 28 3. The board shall take all reasonable and prudent 12.19
 29 steps necessary to collect the amount of assessment due from 12.20
 30 each participating insurer and policyholder, including, if
 31 prudent, filing suit to collect such assessment. If the board 12.22

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1	is unable to collect an assessment from any insurer, the	
2	uncollected assessments shall be levied as an additional	12.23
3	assessment against the participating insurers and any	
4	participating insurer required to pay an additional assessment	12.24
5	as a result of such failure to pay shall have a cause of	12.25
6	action against such nonpaying insurer.	
7	4. Any funds or entitlements that the state may be	12.26
8	eligible to receive by virtue of the Federal Government's	12.27
9	termination of the Federal Crime Insurance Program referenced	
10	in sub-subparagraph (a)1.c. may be used under the plan to	12.29
11	offset any subsequent underwriting deficits that may occur	
12	from risks previously insured with the Federal Crime Insurance	12.30
13	Program.	
14	5. <u>Assessments shall be included as an appropriate</u>	1:1us
15	<u>factor in the making of rates.</u>	12.32
16	6.a. <u>The Legislature finds that the potential for</u>	1:1us
17	<u>unlimited assessments under this paragraph may induce insurers</u>	12.34
18	<u>to attempt to reduce their writings in the voluntary market,</u>	
19	<u>and that such actions would worsen the availability problems</u>	12.35
20	<u>that the association was created to remedy. It is the intent</u>	12.36
21	<u>of the Legislature that insurers remain fully responsible for</u>	
22	<u>covering any deficits of the association; however, it is also</u>	12.37
23	<u>the intent of the Legislature to provide a means by which</u>	12,38
24	<u>assessment liabilities may be amortized over a period of</u>	
25	<u>years.</u>	
26	b. <u>The total amount of deficit assessments under this</u>	12.39
27	<u>paragraph with respect to any year may not exceed 10 percent</u>	12.40
28	<u>of the statewide total gross written premium for all insurers</u>	
29	<u>for the coverages referred to in the introductory language of</u>	12.41
30	<u>this subsection for the prior year, except that if the deficit</u>	
31	<u>with respect to any plan year exceeds such amount and bonds</u>	12.44

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1	<u>are issued under sub-subparagraph c. to defray the deficit,</u>	12.45
2	<u>the total amount of assessments with respect to such deficit</u>	12.46
3	<u>may not in any year exceed 10 percent of the deficit and shall</u>	12.47
4	<u>continue annually until the bonds are retired.</u>	12.48
5	<u>c. The governing body of any unit of local government,</u>	12.49
6	<u>any residents or businesses of which are insured by the</u>	12.51
7	<u>association, may issue bonds as defined in s. 166.101 from</u>	
8	<u>time to time to fund an assistance program, in conjunction</u>	12.52
9	<u>with the association, for the purpose of defraying deficits of</u>	
10	<u>the association. The unit of local government shall enter</u>	12.54
11	<u>into such contracts with the association as are necessary to</u>	12.55
12	<u>carry out this paragraph. Any bonds issued under this sub-</u>	12.56
13	<u>subparagraph shall be payable from and secured by moneys</u>	
14	<u>received by the association from assessments under this</u>	12.57
15	<u>paragraph, and assigned and pledged to or on behalf of the</u>	12.58
16	<u>unit of local government for the benefit of the holders of</u>	
17	<u>such bonds. The funds, credit, property, and taxing power of</u>	12.59
18	<u>the state or of the unit of local government shall not be</u>	12.60
19	<u>pledged for the payment of such bonds.</u>	
20	(d) Upon adoption of the plan, all insurers authorized	12.61
21	in this state to underwrite property or casualty insurance	12.62
22	shall participate in the plan.	
23	(e) A Risk Underwriting Committee of the Joint	12.63
24	Underwriting Association composed of three members experienced	12.65
25	in evaluating insurance risks is created to review risks	
26	rejected by the voluntary market for which application is made	12.66
27	for insurance through the joint underwriting plan. The	12.68
28	committee shall consist of a representative of the market	
29	assistance plan created under s. 627.3515, a member selected	12.69
30	by the insurers participating in the Joint Underwriting	12.70
31	Association, and a member named by the Insurance Commissioner.	12.71

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1	The Risk Underwriting Committee shall appoint such advisory	12.72
2	committees as are provided for in the plan and are necessary	12.73
3	to conduct its functions. The salaries and expenses of the	12.74
4	members of the Risk Underwriting Committee and its advisory	
5	committees shall be paid by the joint underwriting plan. The	12.77
6	plan approved by the department shall establish criteria and	12.78
7	procedures for use by the Risk Underwriting Committee for	
8	determining whether an individual risk is so hazardous as to	12.79
9	be uninsurable. In making this determination and in	12.80
10	establishing the criteria and procedures, the following shall	
11	be considered:	12.81
12	1. Whether the likelihood of a loss for the individual	12.82
13	risk is substantially higher than for other risks of the same	12.84
14	class; and	
15	2. Whether the uncertainty associated with the	13.2
16	individual risk is such that an appropriate premium cannot be	13.3
17	determined.	
18		
19	The acceptance or rejection of a risk by the underwriting	13.4
20	committee shall be construed as the private placement of	13.5
21	insurance and the provisions of chapter 120 shall not apply.	13.6
22	(6) RESIDENTIAL PROPERTY AND CASUALTY JOINT	13.8
23	UNDERWRITING ASSOCIATION.--	
24	(a) There is created a joint underwriting association	13.10
25	for equitable apportionment or sharing among insurers of	13.11
26	property and casualty insurance covering residential property,	13.12
27	for applicants who are in good faith entitled, but are unable,	13.13
28	to procure insurance through the admitted voluntary market.	13.14
29	The association shall operate pursuant to a plan of operation	13.15
30	approved by order of the department. The association shall	13.16
31	submit a proposed plan of operation to the department no later	

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1	than January 15, 1993. The plan is subject to continuous	13.18
2	review by the department. The department may withdraw	13.20
3	approval of all or part of a plan if the department determines	13.21
4	that conditions have changed since approval was granted and	13.22
5	that the purposes of the plan require changes in the plan.	13.23
6	(b) All insurers authorized to write such insurance in	13.25
7	this state must participate in and be members of the	13.26
8	Residential Property and Casualty Joint Underwriting	13.27
9	Association. Each member's portion of losses and expenses	13.29
10	incurred must be in the proportion that the direct premiums of	13.30
11	the member written on residential property in this state	13.31
12	during the preceding calendar year bear to the aggregate	
13	direct premiums of all members of the association written on	13.32
14	residential property in this state during the preceding	13.33
15	calendar year. After review of annual statements, other	13.35
16	reports, and any other statistics that it deems necessary, the	13.36
17	department must certify to the association the aggregate	13.37
18	direct premiums written on residential property in this state	13.38
19	by all members.	13.39
20	(c) The plan of operation of the association:	13.41
21	1. May provide for one or more designated insurers,	13.43
22	able and willing to provide policy and claims service, to act	13.44
23	on behalf of the association to provide such service. If more	13.46
24	than one insurer is designated, each licensed agent shall be	
25	entitled to select the insurer who will service the business	13.47
26	placed by the agent.	13.48
27	2. Must provide for adoption of residential property	13.50
28	and casualty insurance policy forms, which forms must be	
29	approved by the department prior to use. For the purpose of	13.53
30	this section, residential property and casualty insurance	13.54
31	includes:	

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1	a. As to homeowners' insurance, a policy that provides	13.55
2	coverage for accidental loss or damage to a structure with	13.56
3	losses to be adjusted on the basis of costs of repair or	13.57
4	replacement not to exceed a stated amount, with liability	13.58
5	coverage up to \$100,000 per claim and \$300,000 per occurrence,	13.59
6	and with coverages for personal property and contents as are	
7	customarily provided without additional premium charge in	13.60
8	connection with such policy forms; provided that such coverage	
9	and other terms, conditions, limitations, and exclusions of	13.61
10	such policy shall be as would be considered standard within	13.62
11	the insurance industry.	
12	b. As to mobile homeowners' insurance, a policy that	13.63
13	provides coverage for accidental loss or damage to a structure	13.64
14	consistent with s. 627.702, with liability coverage in amounts	13.65
15	up to \$100,000 per claim and \$300,000 per occurrence, and with	
16	coverages for personal property and contents as are	13.66
17	customarily provided without additional premium charge in	
18	connection with such policy forms. Other terms, conditions,	13.68
19	limitations, and exclusions of such policy shall be as would	
20	be considered standard within the insurance industry.	13.69
21	c. As to condominium unit owners' insurance, coverage	13.71
22	for accidental loss or damage to portions of the structure and	13.72
23	fixtures of the unit owner that are not the responsibility of	13.73
24	the condominium association as provided by Florida law, with	13.74
25	losses to be adjusted on the basis of costs of repair or	13.75
26	replacement not to exceed stated amounts; coverage for	
27	personal property and contents as is normally included in such	13.76
28	policy forms without additional premium charge; and liability	13.77
29	coverages not to exceed limits of \$100,000 per claim and	13.78
30	\$300,000 aggregate per occurrence; provided that such coverage	13.79
31	and other terms, conditions, limitations, and exclusions of	13.80

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1	such policy shall be as would be considered standard within	13.81
2	the insurance industry.	
3	d. As to rental dwelling insurance, coverage for	13.83
4	accidental loss or damage to a structure with coverage to be	13.84
5	based on costs of repair or replacement not to exceed a stated	14.1
6	amount, and with liability coverage in amounts up to \$100,000	
7	per claim and \$300,000 per occurrence; provided that such	14.2
8	coverage and other terms, conditions, limitations, and	
9	exclusions of such policy shall be as would be considered	14.3
10	standard within the insurance industry.	14.4
11	e. As to tenants' insurance, coverage for accidental	14.6
12	loss or damage to betterments and improvements in the rented	14.7
13	dwelling unit, with losses to be adjusted on the basis of	
14	costs of repair or replacement not to exceed stated amounts;	14.8
15	coverage for personal property and contents in such limits as	14.9
16	may be selected by the board; and liability coverages in	14.10
17	amounts up to \$100,000 per claim and \$300,000 per occurrence;	14.11
18	provided that such coverage and other terms, conditions,	
19	limitations, and exclusions of such policy shall be as would	14.12
20	be considered standard within the insurance industry.	14.13
21		
22	Any policy under this subparagraph must provide deductibles	14.15
23	for residential property and casualty insurance in a minimum	14.16
24	of \$500 per occurrence, or such higher limits as may be	14.17
25	selected by the insured. Policies issued under this	14.18
26	subparagraph shall not cover loss or damage caused by the	
27	enforcement of any ordinance or law regulating the	14.19
28	construction, use, or repair of any property, or requiring the	
29	tearing down of any property, including the cost of removing	14.20
30	its debris.	
31		

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1	3. May provide that the association may employ or	14.21
2	otherwise contract with individuals or other entities to	14.22
3	provide administrative or professional services that may be	14.23
4	appropriate to effectuate the plan, and shall have the power	14.24
5	to borrow funds and other powers reasonably necessary to	14.25
6	effectuate the requirements of this subsection.	14.26
7	4. Must require that the association operate subject	14.28
8	to the supervision and approval of a board of governors	14.29
9	consisting of 13 individuals, including 1 who is elected as	14.30
10	chairman. The board shall consist of:	14.31
11	a. The insurance consumer advocate appointed under s.	14.33
12	627.0613.	
13	b. Five members designated by the insurance industry.	14.36
14	c. Five consumer representatives appointed by the	14.38
15	Insurance Commissioner. Two of the consumer representatives	14.41
16	must be holders of policies issued by the association, who are	
17	selected with consideration given to reflecting the geographic	14.42
18	balance of association policyholders. Two of the consumer	14.44
19	members must be individuals who are minority persons as	
20	defined in s. 288.703(3). One of the consumer members shall	14.46
21	have expertise in the field of mortgage lending.	14.47
22	d. Two representatives of the insurance industry	14.51
23	appointed by the Insurance Commissioner. Of the two insurance	14.54
24	industry representatives appointed by the Insurance	14.55
25	Commissioner, at least one must be an individual who is a	14.56
26	minority person as defined in s. 288.703(3).	14.57
27		
28	Any board member may be disapproved or removed and replaced by	14.58
29	the commissioner at any time for cause. All board members,	14.60
30	including the chairman, must be appointed to serve for 3-year	14.61
31	terms beginning annually on a date designated by the plan.	14.62

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1	5. Must provide that a risk is eligible to be insured	14.65
2	under the plan only after coverage is activated pursuant to	
3	paragraph (e) and an attempt has been made to place the risk	14.66
4	with an admitted insurer through the market assistance plan	14.67
5	under s. 627.3515, which attempt was not successful, and only	14.68
6	if the risk is determined to be insurable by the risk	14.69
7	underwriting committee. A risk shall cease to be eligible if	14.70
8	it receives a premium quotation from an admitted carrier at	14.71
9	that carrier's filed rate.	14.72
10	6. Must include rules for classifications of risks and	14.74
11	rates therefor.	
12	7. Must provide that if premium and investment income	14.76
13	attributable to a particular plan year are in excess of	14.77
14	projected losses and expenses of the plan attributable to that	14.78
15	year, such excess shall be held in surplus. Such surplus	14.79
16	shall be available to defray deficits as to future years and	14.80
17	shall be used for that purpose prior to assessing member	14.81
18	insurers as to any plan year.	14.82
19	8. Must provide for a Risk Underwriting Committee of	14.84
20	the association composed of three members experienced in	15.1
21	evaluating insurance risks, to review and determine	15.2
22	insurability of risks rejected by the voluntary market for	15.3
23	which application is made for insurance through the	
24	association. The committee shall consist of a representative	15.5
25	of the market assistance plan created under s. 627.3515 and	15.6
26	two members named by the board. The Risk Underwriting	15.9
27	Committee shall appoint such advisory committees as are	15.10
28	provided for in the plan and are necessary to conduct its	
29	functions. The salaries and expenses of the members of the	15.12
30	Risk Underwriting Committee and its advisory committees shall	15.13
31	be paid by the association. The plan approved by the	15.15

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1	department shall establish objective criteria and procedures	15.16
2	for use by the Risk Underwriting Committee to be uniformly	15.17
3	applied for all applicants in determining whether an	
4	individual risk is so hazardous as to be uninsurable. In	15.20
5	making this determination and in establishing the criteria and	15.21
6	procedures, the following shall be considered:	15.22
7	a. Whether the likelihood of a loss for the individual	15.24
8	risk is substantially higher than for other risks of the same	15.25
9	class; and	
10	b. Whether the uncertainty associated with the	15.27
11	individual risk is such that an appropriate premium cannot be	15.28
12	determined.	
13		
14	The acceptance or rejection of a risk by the underwriting	15.30
15	committee shall be construed as the private placement of	15.31
16	insurance, and the provisions of chapter 120 shall not apply.	15.32
17	(d)1. <u>It is the intent of the Legislature that the</u>	15.33
18	<u>rates for coverage provided by the association be actuarially</u>	15.35
19	<u>sound and that the association function as a residual market</u>	
20	<u>mechanism to provide insurance only when the insurance cannot</u>	15.36
21	<u>be procured in the voluntary market. Rates of the plan shall</u>	15.38
22	<u>be based on the association's actual loss experience and</u>	15.39
23	<u>expenses, together with an appropriate catastrophe loading</u>	15.40
24	<u>factor that reflects the actual catastrophic exposure of the</u>	
25	<u>association average-loss-costs-of-the-five-largest-residential</u>	15.41
26	<u>insurers-by-premium-volume-in-this-state-plus-appropriate</u>	15.42
27	<u>factors-for-catastrophe-loading,-projected-expenses-of-the</u>	15.43
28	<u>plan-and-a-25-percent-increment-for-presumed-adverse</u>	15.44
29	<u>selection.</u>	
30	2. No later than <u>March 31 and September 30 of each</u> 9	15.45
31	<u>months-after-the-end-of-each-calendar year, the board must</u>	15.47

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1	review and file with the department the loss and expense	15.48
2	experience of the association. Such filing shall include a	15.49
3	rate filing based-on-the-loss-and-expense-experience-and-other	15.50
4	relevant-factors-if-the-board-determines-that-such-a-filing-is	15.51
5	appropriate. Any such rate filing shall contain sufficient	15.53
6	detail to enable the department to determine that the proposed	15.54
7	rates are not inadequate, excessive, or unfairly	15.55
8	discriminatory pursuant to the standards provided herein and	15.56
9	in s. 627.062.	
10	(e) Coverage through the association is hereby	15.58
11	activated effective upon approval of the plan, and shall	
12	remain activated until coverage is deactivated pursuant to	15.59
13	paragraph (f). Thereafter, coverage through the association	15.60
14	shall be reactivated by order of the department only under one	15.61
15	of the following circumstances:	15.62
16	1. If the Market Assistance Plan receives a minimum of	15.64
17	100 applications for coverage within a 3-month period, or 200	15.65
18	applications for coverage within a 1-year period or less for	15.66
19	residential coverage, unless the Market Assistance Plan	15.67
20	provides a quotation from admitted carriers at their filed	
21	rates for at least 90 percent of such applicants. Any Market	15.69
22	Assistance Plan application that is rejected because an	15.70
23	individual risk is so hazardous as to be uninsurable using the	15.71
24	criteria specified in subparagraph (c)8. shall not be included	15.72
25	in the minimum percentage calculation provided herein. In the	15.74
26	event that there is a legal or administrative challenge to a	15.75
27	determination by the department that the conditions of this	15.76
28	subparagraph have been met for eligibility for coverage in the	15.77
29	association, any eligible risk may obtain coverage during the	15.78
30	pendency of such challenge.	15.79
31		

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1	2. In response to a state of emergency declared by the	15.8'
2	Governor under s. 252.36, the department may activate coverage	15.82
3	by order for the period of the emergency upon a finding by the	15.83
4	department that the emergency significantly affects the	
5	availability of residential property insurance.	15.84
6	(f) The activities of the association shall be	16.2
7	reviewed at least annually by the board and, upon	
8	recommendation by the board or petition of any interested	16.3
9	party, coverage shall be deactivated if the department finds	16.4
10	that the conditions giving rise to its activation no longer	16.5
11	exist.	16.6
12	(g)1. The board shall certify to the department its	16.8
13	needs for annual assessments as to a particular calendar year,	16.9
14	and any startup or interim assessments that it deems to be	16.10
15	necessary to sustain operations as to a particular year	16.11
16	pending the receipt of annual assessments. After the	16.12
17	department approves such certification, the board shall levy	
18	such annual, startup, or interim assessments. Such	16.14
19	assessments shall be prorated as provided in paragraph (b).	16.15
20	The board shall take all reasonable and prudent steps	16.16
21	necessary to collect the amount of assessment due from each	16.17
22	participating insurer, including, if prudent, filing suit to	
23	collect such assessment. If the board is unable to collect an	16.18
24	assessment from any insurer, the uncollected assessments shall	
25	be levied as an additional assessment against the	16.19
26	participating insurers and any participating insurer required	16.20
27	to pay an additional assessment as a result of such failure to	
28	pay shall have a cause of action against such nonpaying	16.21
29	insurer. <u>Assessments shall be included as an appropriate</u>	16.22
30	<u>factor in the making of rates.</u>	16.23
31		

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1	<u>2.a. The Legislature finds that the potential for</u>	1:1us
2	<u>unlimited assessments under this paragraph may induce insurers</u>	16.25
3	<u>to attempt to reduce their writings in the voluntary market,</u>	
4	<u>and that such actions would worsen the availability problems</u>	16.26
5	<u>that the association was created to remedy. It is the intent</u>	16.27
6	<u>of the Legislature that insurers remain fully responsible for</u>	
7	<u>covering any deficits of the association; however, it is also</u>	16.28
8	<u>the intent of the Legislature to provide a means by which</u>	16.29
9	<u>assessment liabilities may be amortized over a period of</u>	
10	<u>years.</u>	
11	<u>b. The total amount of deficit assessments under this</u>	16.30
12	<u>paragraph with respect to any year may not exceed 10 percent</u>	16.31
13	<u>of the statewide total gross written premium for all insurers</u>	
14	<u>for the coverages referred to in paragraph (a) for the prior</u>	16.32
15	<u>year, except that if the deficit with respect to any plan year</u>	
16	<u>exceeds such amount and bonds are issued under sub-</u>	16.35
17	<u>subparagraph c. to defray the deficit, the total amount of</u>	
18	<u>assessments with respect to such deficit may not in any year</u>	16.37
19	<u>exceed 10 percent of the deficit and shall continue annually</u>	
20	<u>until the bonds are retired.</u>	16.38
21	<u>c. The governing body of any unit of local government,</u>	1:1us
22	<u>any residents of which are insured by the association, may</u>	16.40
23	<u>issue bonds as defined in s. 166.101 from time to time to fund</u>	
24	<u>an assistance program, in conjunction with the association,</u>	16.41
25	<u>for the purpose of defraying deficits of the association. The</u>	16.43
26	<u>unit of local government shall enter into such contracts with</u>	
27	<u>the association as are necessary to carry out this paragraph.</u>	16.44
28	<u>Any bonds issued under this sub-subparagraph shall be payable</u>	16.45
29	<u>from and secured by moneys received by the association from</u>	16.46
30	<u>assessments under this paragraph, and assigned and pledged to</u>	16.47
31	<u>or on behalf of the unit of local government for the benefit</u>	

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1 of the holders of such bonds. The funds, credit, property, 16.48
 2 and taxing power of the state or of the unit of local
 3 government shall not be pledged for the payment of such bonds. 16.49
 4 3. As a means of encouraging new insurers to enter the 16.50
 5 voluntary market, the plan of operation of the association 16.51
 6 must provide a formula that provides credits against
 7 assessments for an insurer's voluntarily written personal 16.52
 8 lines residential coverage, other than coverage that excludes
 9 the peril of windstorm, in areas that are determined by the 16.53
 10 board to be areas of high-potential hurricane losses. This 16.55
 11 subsection applies only if the insurer commenced writing
 12 personal lines residential coverage in this state after the 16.56
 13 effective date of this act. The credit provided by this 16.57
 14 subparagraph expires on December 31 of the first year in which
 15 the insurer's statewide gross written premium for personal 16.58
 16 lines residential coverage equals or exceeds 0.5 percent of 16.59
 17 the total statewide gross written premium for personal lines
 18 residential coverage, or 3 years after the date of issuance of 16.60
 19 the insurer's first personal lines residential policy in this 16.61
 20 state, whichever occurs earlier.
 21 (h) Nothing in this subsection shall be construed to 16.62
 22 preclude the issuance of residential property insurance 16.64
 23 coverage pursuant to part VIII of chapter 626.
 24 (i) There shall be no liability on the part of, and no 16.66
 25 cause of action of any nature shall arise against, any member 16.67
 26 insurer or its agents or employees, the Residential Property
 27 and Casualty Joint Underwriting Association or its agents or 16.69
 28 employees, members of the board of governors, or the 16.70
 29 department or its representatives for any action taken by them
 30 in the performance of their duties under this subsection. 16.71
 31 Such immunity does not apply to actions for breach of any 16.72

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1	contract or agreement pertaining to insurance, or any other	16.73
2	willful tort.	
3	(j) The Residential Property and Casualty Joint	16.74
4	Underwriting Association is not a state agency, board, or	16.75
5	commission. However, for the purposes of s. 199.183(1), the	16.76
6	Residential Property and Casualty Joint Underwriting	16.77
7	Association shall be considered a political subdivision of the	
8	state and shall be exempt from the corporate income tax and	16.78
9	the insurance premium tax.	
10	<u>(k) Upon a determination by the board of governors</u>	16.79
11	<u>that the conditions giving rise to the establishment and</u>	16.80
12	<u>activation of the association no longer exist, and upon the</u>	
13	<u>consent thereto by order of the department, the association is</u>	16.81
14	<u>dissolved. Upon dissolution, the assets of the association</u>	16.82
15	<u>shall be applied first to pay all debts, liabilities, and</u>	16.83
16	<u>obligations of the association, including the establishment of</u>	
17	<u>reasonable reserves for any contingent liabilities or</u>	16.84
18	<u>obligations, and all remaining assets of the association shall</u>	
19	<u>become property of the state and deposited in the Florida</u>	17.1
20	<u>Hurricane Catastrophe Fund.</u>	17.2
21	Section 15. Section 627.4133, Florida Statutes, is	17.3
22	amended to read:	
23	627.4133 Notice of cancellation, nonrenewal, or	17.4
24	renewal premium.--	17.5
25	(1) <u>Except as provided in subsection (2):</u>	17.6
26	<u>(a) An insurer issuing a policy providing coverage for</u>	17.7
27	<u>property, casualty, except mortgage guaranty, surety, or</u>	17.8
28	<u>marine insurance, other than motor vehicle insurance subject</u>	17.9
29	<u>to s. 627.728, shall give the named insured at least 45 days'</u>	17.10
30	<u>advance written notice of nonrenewal or of the renewal</u>	17.11
31	<u>premium. If the policy is not to be renewed, the written</u>	17.12

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1	notice shall state the reason or reasons as to why the policy	17.13
2	is not to be renewed. The provisions of this section	17.14
3	requiring 45 days' advance written notice of the renewal	
4	premium do not apply to workers' compensation and employer's	17.15
5	liability insurance. An insurer must furnish written notice	17.16
6	of the renewal premium to an insured covered by a policy of	
7	workers' compensation and employer's liability insurance not	17.17
8	later than the expiration date of the policy to be renewed.	17.18
9	This requirement applies only if the insured has furnished all	17.19
10	of the necessary information so as to enable the insurer to	17.20
11	develop the renewal premium prior to the expiration date of	
12	the policy to be renewed.	17.21
13	<u>(b)†2†</u> An insurer issuing a policy providing coverage	17.23
14	for property, casualty, except mortgage guaranty, surety, or	
15	marine insurance, other than motor vehicle insurance subject	17.25
16	to s. 627.728 or s. 627.7281, shall give the named insured	
17	written notice of cancellation or termination other than	17.26
18	nonrenewal at least 45 days prior to the effective date of the	
19	cancellation or termination, including in the written notice	17.27
20	the reason or reasons for the cancellation or termination,	17.28
21	except that:	
22	<u>1.†e†</u> When cancellation is for nonpayment of premium,	17.30
23	at least 10 days' written notice of cancellation accompanied	
24	by the reason therefor shall be given; and	17.31
25	<u>2.†b†</u> When such cancellation or termination occurs	17.32
26	during the first 90 days during which the insurance is in	17.33
27	force and the insurance is canceled or terminated for reasons	17.34
28	other than nonpayment of premium, at least 20 days' written	
29	notice of cancellation or termination accompanied by the	17.35
30	reason therefor shall be given except where there has been a	17.36
31	material misstatement or misrepresentation or failure to	

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1	comply with the underwriting requirements established by the	17.37
2	insurer.	
3		
4	After the policy has been in effect for 90 days, no such	17.39
5	policy shall be canceled by the insurer except when there has	
6	been a material misstatement, a nonpayment of premium, a	17.41
7	failure to comply with underwriting requirements established	17.42
8	by the insurer within 90 days of the date of effectuation of	
9	coverage, or a substantial change in the risk covered by the	17.44
10	policy or when the cancellation is for all insureds under such	17.45
11	policies for a given class of insureds. The provisions of	17.47
12	this subsection shall not apply to individually rated risks	
13	having a policy term of less than 90 days.	17.48
14	<u>(c)†3†</u> If an insurer fails to provide the 45-day or	17.49
15	20-day written notice required under this section, the	17.51
16	coverage provided to the named insured shall remain in effect	
17	until 45 days after the notice is given or until the effective	17.52
18	date of replacement coverage obtained by the named insured,	17.53
19	whichever occurs first. The premium for the coverage shall	17.54
20	remain the same during any such extension period except that,	
21	in the event of failure to provide notice of nonrenewal, if	17.55
22	the rate filing then in effect would have resulted in a	17.56
23	premium reduction, the premium during such extension of	
24	coverage shall be calculated based upon the later rate filing.	17.57
25	<u>(2) With respect to any personal lines or commercial</u>	17.58
26	<u>residential property insurance policy, including, but not</u>	17.59
27	<u>limited to, any homeowner's, mobile home owner's, farm</u>	
28	<u>owner's, condominium association, condominium unit owner's,</u>	17.61
29	<u>apartment building, or other policy covering a residential</u>	17.62
30	<u>structure or its contents:</u>	
31		

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1	<u>(a) The insurer shall give the named insured at least</u>	17.63
2	<u>45 days' advance written notice of the renewal premium.</u>	
3	<u>(b) The insurer shall give the named insured written</u>	17.65
4	<u>notice of nonrenewal, cancellation, or termination at least 90</u>	
5	<u>days prior to the effective date of the nonrenewal,</u>	17.66
6	<u>cancellation, or termination; except that if the property has</u>	17.67
7	<u>been continuously insured under the policy for 5 years or</u>	17.68
8	<u>more, the notice must be given at least 180 days prior to the</u>	17.69
9	<u>effective date of the nonrenewal, cancellation, or</u>	
10	<u>termination. The notice must include the reason or reasons</u>	17.70
11	<u>for the nonrenewal, cancellation, or termination, except that:</u>	17.72
12	<u>1. When cancellation is for nonpayment of premium, at</u>	17.73
13	<u>least 10 days' written notice of cancellation accompanied by</u>	17.74
14	<u>the reason therefor shall be given.</u>	
15	<u>2. When such cancellation or termination occurs during</u>	17.75
16	<u>the first 90 days during which the insurance is in force and</u>	17.76
17	<u>the insurance is canceled or terminated for reasons other than</u>	
18	<u>nonpayment of premium, at least 20 days' written notice of</u>	17.77
19	<u>cancellation or termination accompanied by the reason therefor</u>	
20	<u>shall be given except where there has been a material</u>	17.78
21	<u>misstatement or misrepresentation or failure to comply with</u>	17.79
22	<u>the underwriting requirements established by the insurer.</u>	
23		
24	<u>After the policy has been in effect for 90 days, the policy</u>	17.80
25	<u>shall not be canceled by the insurer except when there has</u>	
26	<u>been a material misstatement, a nonpayment of premium, a</u>	17.81
27	<u>failure to comply with underwriting requirements established</u>	
28	<u>by the insurer within 90 days of the date of effectuation of</u>	17.82
29	<u>coverage, or a substantial change in the risk covered by the</u>	17.83
30	<u>policy or when the cancellation is for all insureds under such</u>	
31	<u>policies for a given class of insureds. This paragraph does</u>	17.84

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1 not apply to individually rated risks having a policy term of
2 less than 90 days. 18.2

3 (c) If the insurer fails to provide the notice 18.1us
4 required by this subsection, other than the 10-day notice, the 18.3
5 coverage provided to the named insured shall remain in effect 18.4
6 until the effective date of replacement coverage or until the
7 expiration of a period of days after the notice is given equal 18.5
8 to the required notice period, whichever occurs first. The 18.6
9 premium for the coverage shall remain the same during any such
10 extension period except that, in the event of failure to 18.7
11 provide notice of nonrenewal, if the rate filing then in
12 effect would have resulted in a premium reduction, the premium 18.8
13 during such extension shall be calculated based on the later 18.9
14 rate filing.

15 (3)†4† Claims on property insurance policies that are 18.1us
16 the result of an act of God may not be used as a cause for 18.11
17 cancellation or nonrenewal, unless the insurer can
18 demonstrate, by claims frequency or otherwise, that the 18.12
19 insured has failed to take action reasonably necessary as
20 requested by the insurer to prevent recurrence of damage to 18.13
21 the insured property.

22 Section 16. Section 627.701, Florida Statutes, is 18.15
23 amended to read: 18.16'

24 627.701 Coinsurance contracts; deductibles.-- 18.17

25 (1) A property insurer may issue an insurance policy 18.18
26 or contract covering either real or personal property in this
27 state which contains provisions requiring the insured to be 18.19
28 liable as a coinsurer with the insurer issuing the policy for 18.20
29 any part of the loss or damage by covered peril to the
30 property described in the policy only if: 18.21
31

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1 (a)†† The following words are printed or stamped on 18.25
 2 the face of the policy, or a form containing the following 18.24
 3 words is attached to the policy: "Coinsurance contract: The 18.26
 4 rate charged in this policy is based upon the use of the
 5 coinsurance clause attached to this policy, with the consent 18.27
 6 of the insured.";

7 (b)†2 The coinsurance clause in the policy is clearly 18.29
 8 identifiable; and

9 (c)†3 The rate for the insurance with or without the 18.32
 10 coinsurance clause is furnished the insured upon his request.

11 (2) The department shall not approve a policy form for 18.34
 12 residential property insurance that contains a deductible
 13 applicable only to windstorm losses, or that contains a 18.36
 14 deductible stated as a percentage rather than a specific
 15 dollar amount, unless the wording of the deductible provision 18.38
 16 of the policy is determined by the department to be clear and 18.40
 17 unambiguous.

18 Section 17. Section 627.7011, Florida Statutes, is 18.41
 19 created to read: 18.42

20 627.7011 Homeowner's policies; offer of replacement 18.43
 21 cost coverage and law and ordinance coverage.--

22 (1) Prior to issuing a homeowner's insurance policy on 18.45
 23 or after the effective date of this act, or prior to the first 18.46
 24 renewal of a homeowner's insurance policy on or after the
 25 effective date of this act, the insurer must offer each of the 18.48
 26 following: 18.49

27 (a) A policy or endorsement providing that any loss 18.50
 28 will be adjusted on the basis of replacement costs not 18.51
 29 exceeding policy limits as to the dwelling, rather than actual
 30 cash value, but not including costs necessary to meet 18.52
 31 applicable laws regulating the construction, use, or repair of

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1	<u>any property or requiring the tearing down of any property.</u>	18.53
2	<u>including the costs of removing debris.</u>	18.54
3	<u>(b) A policy or endorsement providing that, subject to</u>	1:1us
4	<u>other policy provisions, any loss will be adjusted on the</u>	18.55
5	<u>basis of replacement costs not exceeding policy limits as to</u>	18.56
6	<u>the dwelling, rather than actual cash value, and also</u>	
7	<u>including costs necessary to meet applicable laws regulating</u>	18.57
8	<u>the construction, use, or repair of any property or requiring</u>	
9	<u>the tearing down of any property, including the costs of</u>	18.58
10	<u>removing debris; however, such additional costs necessary to</u>	18.59
11	<u>meet applicable laws may be limited to 25 percent of the</u>	
12	<u>dwelling limit, and such coverage shall apply only to repairs</u>	18.60
13	<u>of the damaged portion of the structure unless the total</u>	18.61
14	<u>damage to the structure exceeds 50 percent of the replacement</u>	
15	<u>cost of the structure.</u>	18.62
16		
17	<u>An insurer is not required to make the offers required by this</u>	1:1us
18	<u>subsection with respect to the issuance or renewal of a</u>	18.64
19	<u>homeowner's policy that contains the provisions specified in</u>	18.65
20	<u>paragraph (b). This subsection does not prohibit the offer of</u>	18.66
21	<u>a guaranteed replacement cost policy.</u>	
22	<u>(2) Unless the insurer obtains the policyholder's</u>	18.67
23	<u>written refusal of the policies or endorsements specified in</u>	18.69
24	<u>subsection (1), any policy covering the dwelling is deemed to</u>	
25	<u>include the coverage specified in paragraph (1)(b). The</u>	18.71
26	<u>rejection or selection of alternative coverage shall be made</u>	
27	<u>on a form approved by the department. The form shall fully</u>	18.73
28	<u>advise the applicant of the nature of the coverage being</u>	
29	<u>rejected. If this form is signed by a named insured, it will</u>	18.74
30	<u>be conclusively presumed that there was an informed, knowing</u>	18.75
31	<u>rejection of the coverage or election of the alternative</u>	

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1 coverage on behalf of all insureds. Unless the policyholder 18.77
 2 requests in writing the coverage specified in this section, it
 3 need not be provided in or supplemental to any other policy 18.78
 4 that renews, extends, changes, supersedes, or replaces an 18.79
 5 existing policy when the policyholder has rejected the
 6 coverage specified in this section or has selected alternative 18.80
 7 coverage. The insurer must provide such policyholder with 18.82
 8 notice of the availability of such coverage in a form
 9 specified by the department at least once every 3 years. The 18.84
 10 failure to provide such notice constitutes a violation of this
 11 code, but does not affect the coverage provided under the 19.1
 12 policy.

13 (3) Nothing in this section shall be construed to 1:lus
 14 apply to policies not considered to be "homeowners' policies," 19.4
 15 as that term is commonly understood in the insurance industry.
 16 This section specifically does not apply to mobile home 19.6
 17 policies. Nothing in this section shall be construed as 19.7
 18 limiting the ability of any insurer to reject or nonrenew any 19.8
 19 insured or applicant on the grounds that the structure does
 20 not meet underwriting criteria applicable to replacement cost 19.9
 21 policies or for other lawful reasons. 19.10

22 (4) Nothing in this section is intended to affect any 1:lus
 23 legal actions pending on the effective date of this act, or to 19.12
 24 express the opinion of the Legislature with respect to any 19.13
 25 issues involved in such legal actions.

26 Section 18. Section 627.7012, Florida Statutes, is 19.14
 27 created to read: 19.15

28 627.7012 Emergency adjuster pools.--The department may 1:lus
 29 adopt rules establishing pools of qualified adjusters. The 19.17
 30 rules shall provide that upon the occurrence of a hurricane or
 31 other declared emergency, the department may assign members of 19.18

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1	<u>adjuster pools to specific affected areas, and that any</u>	
2	<u>insurer may use members of adjuster pools to adjust claims in</u>	19.19
3	<u>the assigned areas; however, the rules shall not require any</u>	19.20
4	<u>insurer to use adjusters assigned by the department. The</u>	19.22
5	<u>rules shall also specify the qualifications of the adjusters,</u>	
6	<u>including, but not limited to, educational qualifications and</u>	19.23
7	<u>experience, with emphasis on catastrophe experience, and shall</u>	
8	<u>specify the method for entry into and removal from the pool.</u>	19.24
9	Section 19. Section 627.7013, Florida Statutes, is	19.25
10	created to read:	19.26
11	<u>627.7013 Orderly markets for personal lines</u>	19.28
12	<u>residential property insurance.--</u>	19.27
13	<u>(1) FINDINGS AND PURPOSE.--The Legislature finds that</u>	19.29
14	<u>personal lines residential property insurers; as a condition</u>	19.30
15	<u>of doing business in this state, have a responsibility to</u>	19.31
16	<u>contribute to an orderly market for personal lines residential</u>	
17	<u>property insurance and that there is a compelling state</u>	19.33
18	<u>interest in maintaining an orderly market for personal lines</u>	
19	<u>residential property insurance. The Legislature further finds</u>	19.35
20	<u>that Hurricane Andrew, which caused over \$15 billion of</u>	19.36
21	<u>insured losses in South Florida, has reinforced the need of</u>	19.37
22	<u>consumers to have reliable homeowner's insurance coverage;</u>	
23	<u>however, the enormous monetary impact to insurers of Hurricane</u>	19.38
24	<u>Andrew claims has prompted insurers to propose substantial</u>	19.39
25	<u>cancellation or nonrenewal of their homeowner's insurance</u>	
26	<u>policyholders. The Legislature further finds that the massive</u>	19.40
27	<u>cancellations and nonrenewals announced, proposed, or</u>	19.41
28	<u>contemplated by certain insurers constitute a significant</u>	
29	<u>danger to the public health, safety, and welfare, and</u>	19.42
30	<u>destabilize the insurance market. In furtherance of the</u>	19.44
31	<u>overwhelming public necessity for an orderly market for</u>	

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1	<u>property insurance, the Legislature, in ch. 93-401, Laws of</u>	19.45
2	<u>Florida, imposed, for a limited time, a moratorium on</u>	
3	<u>cancellation or nonrenewal of personal lines residential</u>	19.47
4	<u>property insurance policies. The Legislature further finds</u>	19.48
5	<u>that upon expiration of the moratorium, additional actions are</u>	
6	<u>required to maintain an orderly market for personal lines</u>	19.50
7	<u>residential property insurance in this state. The purposes of</u>	19.51
8	<u>this section are to provide for a phaseout of the moratorium</u>	
9	<u>and to require advance planning and approval for programs of</u>	19.52
10	<u>exposure reduction.</u>	
11	<u>(2) MORATORIUM PHASEOUT.--</u>	19.53
12	<u>(a) Effective upon the expiration of the moratorium on</u>	19.54
13	<u>cancellation or nonrenewal of personal lines residential</u>	19.55
14	<u>property insurance policies under ch. 93-401, Laws of Florida,</u>	
15	<u>the following restrictions shall apply to the cancellation or</u>	19.57
16	<u>nonrenewal of personal lines residential property insurance</u>	19.58
17	<u>policies that were in force on November 14, 1993, and were</u>	19.59
18	<u>subject to the moratorium:</u>	
19	<u>1. In any 12-month period, an insurer may not cancel</u>	19.61
20	<u>or nonrenew more than 5 percent of its policies in the state</u>	19.62
21	<u>for the purpose of reducing the insurer's exposure to</u>	19.64
22	<u>hurricane claims. This subparagraph does not prohibit any</u>	19.65
23	<u>cancellations or nonrenewals of such policies for any other</u>	
24	<u>lawful reason.</u>	19.66
25	<u>2. This subsection does not apply to the extent that</u>	19.67
26	<u>an insurer demonstrates to the department that its proposed</u>	
27	<u>cancellations or nonrenewals are necessary for the insurer to</u>	19.68
28	<u>avoid an unreasonable risk of insolvency. In reaching this</u>	19.70
29	<u>determination the department shall consider the insurer's</u>	
30	<u>size, its market concentration, its general financial</u>	19.71
31	<u>condition, the degree to which personal lines residential</u>	

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1	<u>property insurance comprises its insurance business in this</u>	19.72
2	<u>state, and the way in which these factors impact on the risk</u>	19.73
3	<u>to the insurer's solvency in relation to its probable maximum</u>	
4	<u>loss in the event of a hurricane. In no event shall any</u>	19.75
5	<u>insurer be required to risk more than its total surplus to any</u>	
6	<u>objectively defined probable maximum loss resulting from one</u>	19.76
7	<u>Florida hurricane loss event. Within 30 days after receiving</u>	19.77
8	<u>an application for a waiver under this subparagraph, the</u>	19.78
9	<u>department must either notify the insurer of the additional</u>	
10	<u>information required by the department or notify the insurer</u>	19.79
11	<u>that no additional information is required. The insurer must</u>	19.80
12	<u>provide the required information within 30 days after</u>	
13	<u>receiving the notice. The department must take final action</u>	19.81
14	<u>on the application within 30 days after receiving the required</u>	19.82
15	<u>information, or, if no information was required, within 60</u>	
16	<u>days after sending notice that no additional information was</u>	19.83
17	<u>required. The time limits specified in this subparagraph for</u>	19.84
18	<u>action on an application for waiver may not be tolled for any</u>	20.1
19	<u>reason.</u>	
20	<u>(b) This subsection is repealed on November 14, 1996.</u>	20.3
21	<u>(3) EXPOSURE REDUCTION PLANS.--Each insurer that</u>	1:1us
22	<u>intends to cancel or nonrenew personal lines residential</u>	20.4
23	<u>property insurance policies for the purpose of reducing</u>	
24	<u>hurricane exposure shall, at least 6 months prior to the first</u>	20.5
25	<u>such cancellation or nonrenewal, submit its exposure reduction</u>	20.6
26	<u>plan to the department for approval. The department may</u>	20.7
27	<u>disapprove a plan only if it finds that the plan would</u>	
28	<u>unreasonably destabilize the personal lines residential</u>	20.8
29	<u>property insurance market in this state. This subsection does</u>	20.9
30	<u>not apply to any cancellation or nonrenewal authorized under</u>	
31	<u>subsection (2).</u>	20.10

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1	Section 20. Section 627.7014, Florida Statutes, is	20.10
2	created to read:	
3	<u>627.7014 Geographic concentration of property</u>	1:1us
4	<u>insurance exposures.--</u>	20.12
5	<u>(1) Each property insurer shall develop and implement</u>	1:1us
6	<u>a plan for the avoidance of such concentration of property</u>	20.14
7	<u>insurance exposures as would render the insurer financially</u>	
8	<u>impaired or insolvent in the event of a reasonably anticipated</u>	20.15
9	<u>loss event.</u>	
10	<u>(2) The department may adopt rules requiring certain</u>	1:1us
11	<u>property insurers to annually report insured property</u>	20.17
12	<u>exposures, and the effect of reinsurance on such exposures, by</u>	
13	<u>geographic region.</u>	20.18
14	<u>(3) If the department determines that an insurer's</u>	1:1us
15	<u>property insurance exposures are so concentrated as to make</u>	20.20
16	<u>financial impairment or insolvency likely in the event of a</u>	
17	<u>reasonably anticipated loss event, the department may require</u>	20.21
18	<u>the insurer to submit to the department within 60 days a plan</u>	20.22
19	<u>under which the insurer will alter the geographic distribution</u>	
20	<u>of the insurer's exposures to an appropriate level within a</u>	20.23
21	<u>reasonable period of time.</u>	
22	Section 21. Section 628.801, Florida Statutes, is	20.24
23	amended to read:	
24	<u>628.801 Insurance holding companies; registration;</u>	20.25
25	<u>regulation.--Every insurer which is authorized to do business</u>	20.29
26	<u>in this state and which is a member of an insurance holding</u>	
27	<u>company shall register with the department and be subject to</u>	20.30
28	<u>regulation with respect to its relationship to such holding</u>	
29	<u>company as provided by rule or statute. The department shall</u>	20.32
30	<u>adopt promulgate rules establishing the information and form</u>	20.33
31	<u>required for registration and the manner in which registered</u>	20.34

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1	insurers and their affiliates shall be regulated. <u>All</u>	1:1.15
2	<u>provisions of the rules shall apply to domestic insurers,</u>	
3	<u>foreign insurers, and commercially domiciled insurers, except</u>	20.35
4	<u>that the rules shall contain exemptions for foreign insurers</u>	20.37
5	<u>domiciled in states accredited by the National Association of</u>	
6	<u>Insurance Commissioners. Except to the extent of any conflict</u>	20.38
7	<u>with this code, the rules must include all requirements and</u>	
8	<u>standards of sections 4 and 5 of the Insurance Holding Company</u>	20.39
9	<u>System Regulatory Act and the Insurance Holding Company System</u>	20.40
10	<u>Model Regulation of the National Association of Insurance</u>	
11	<u>Commissioners, as the Regulatory Act and the Model Regulation</u>	20.41
12	<u>existed in January 1, 1993, and may include a prohibition on</u>	20.42
13	<u>oral contracts between affiliated entities. Upon request, the</u>	20.43
14	<u>department may waive filing requirements under this section</u>	
15	<u>for a domestic insurer that is the subsidiary of an insurer</u>	20.44
16	<u>that is in full compliance with the insurance holding company</u>	20.45
17	<u>registration laws of its state of domicile, which state is</u>	
18	<u>accredited by the National Association of Insurance</u>	20.46
19	<u>Commissioners. Such rules shall be in substantial conformity</u>	1:1.15
20	<u>to those standards set forth in Chapter 4-267, Florida</u>	20.48
21	<u>Administrative Code, as such rule provisions existed on</u>	20.49
22	<u>January 1, 1985, and shall be promulgated pursuant to</u>	20.50
23	<u>634.306; it is specifically provided that, until superseding</u>	20.51
24	<u>rule provisions become effective, Chapter 4-267, Florida</u>	20.52
25	<u>Administrative Code, shall be deemed to implement this</u>	20.53
26	<u>provision:</u>	
27	Section 22. Section 631.52, Florida Statutes, is	20.54
28	amended to read:	
29	631.52 Scope.--This part shall apply to all kinds of	20.55
30	direct insurance, except:	20.57
31	(1) Life, annuity, health, or disability insurance;	20.58

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1	(2) Mortgage guaranty, financial guaranty, or other	20.59
2	forms of insurance offering protection against investment	20.60
3	risks;	
4	(3) Fidelity or surety bonds, or any other bonding	20.61
5	obligations;	
6	(4) Credit insurance, vendors' single interest	20.62
7	insurance, or collateral protection insurance or any similar	20.63
8	insurance protecting the interests of a creditor arising out	
9	of a creditor-debtor transaction;	20.64
10	(5) Warranty, including motor vehicle service, home	20.65
11	warranty, or service warranty;	20.66
12	(6) Ambulance service, health care service, or preneed	20.67
13	funeral merchandise or service;	20.68
14	(7) Optometric service plan, pharmaceutical service	20.69
15	plan, or dental service plan;	20.70
16	(8) Legal expense;	20.71
17	(9) Health maintenance, prepaid health clinic, or	20.72
18	continuing care;	
19	(10) Ocean marine or wet marine insurance;	20.73
20	(11) Self-insurance;	20.74
21	(12) Title insurance;	20.75
22	(13) Surplus lines <u>other than surplus lines coverage</u>	20.76
23	<u>of residential property</u> ;	20.77
24	(14) Any transaction or combination of transactions	20.78
25	between a person, including affiliates of such person, and an	20.79
26	insurer, including affiliates of such insurer, which involves	
27	the transfer of investment or credit risk unaccompanied by the	20.80
28	transfer of insurance risk; or	20.81
29	(15) Any insurance provided by or guaranteed by	20.82
30	government.	
31		

141-324A-10-3

1	Section 23. Subsection (7) of section 631.54, Florida	20.83
2	Statutes, is amended to read:	
3	631.54 Definitions.--As used in this part:	20.84
4	(7) "Member insurer" means any person who writes any	21.2
5	kind of insurance to which this part applies under s. 631.52,	21.3
6	including the exchange of reciprocal or interinsurance	
7	contracts, and is licensed to transact insurance in this	21.4
8	state, <u>and also includes any surplus lines insurer that is</u>	21.5
9	<u>eligible or otherwise permitted under s. 626.918, but includes</u>	
10	<u>such surplus lines insurer as to residential coverage only.</u>	21.6
11	Section 24. Subsection (2) of section 631.55, Florida	21.7
12	Statutes, is amended to read:	
13	631.55 Creation of the association.--	21.8
14	(2) For the purposes of administration and assessment,	21.10
15	the association shall be divided into <u>five</u> few separate	21.11
16	accounts:	
17	(a) The workers' compensation insurance account, which	21.13
18	includes excess workers' compensation insurance;	
19	(b) The auto liability account;	21.14
20	(c) The auto physical damage account; and	21.16
21	<u>(d) The surplus lines residential coverage account;</u>	1:1us
22	<u>and</u>	
23	<u>(e)†d†</u> The account for all other insurance to which	1:1us
24	this part applies.	21.19
25	Section 25. <u>The Department of Insurance shall, within</u>	21.20
26	<u>existing resources, conduct a study of the appropriateness of</u>	21.21
27	<u>classifying condominium association master policies as</u>	
28	<u>commercial insurance policies, including consideration of</u>	21.22
29	<u>issues involved with the possible inclusion of condominium</u>	21.23
30	<u>association master policies within the Residential Property</u>	
31	<u>and Casualty Joint Underwriting Association with a separate</u>	21.24

CODING: Words stricken are deletions; words underlined are additions.

41-324A-0-3

1	<u>base for deficit assessments, and including consideration of</u>	21.25
2	<u>those provisions of law applicable to personal lines policies</u>	
3	<u>that might also be applied to condominium association</u>	21.26
4	<u>policies. The department shall, by January 1, 1994, complete</u>	21.27
5	<u>its study and make recommendations to the Speaker of the House</u>	21.28
6	<u>of Representatives, the President of the Senate, the majority</u>	
7	<u>and minority leaders of each house, and the chairs of the</u>	21.29
8	<u>committees of each house having primary jurisdiction over</u>	21.30
9	<u>insurance matters.</u>	
10	Section 26. Subsection (1) of section 625.330, Florida	21.31
11	Statutes, is amended to read:	
12	625.330 Special investments by title insurer.--	21.31
13	(1) In addition to other investments eligible under	21.33
14	this part, a title insurer may invest and have invested an	
15	amount not exceeding the greater of \$300,000 or 50 percent of	21.35
16	that part of its surplus as to policyholders which exceeds the	21.37
17	minimum surplus required by s. 624.408(3)-and-(4) in its	
18	abstract plant and equipment, in loans secured by mortgages on	21.41
19	abstract plants and equipment, and, with the consent of the	21.42
20	department, in stocks of abstract companies. If the insurer	21.44
21	transacts kinds of insurance in addition to title insurance,	21.45
22	for the purposes of this section its paid-in capital stock	
23	shall be prorated between title insurance and such other	21.46
24	insurances upon the basis of the reserves maintained by the	21.47
25	insurer for the various kinds of insurance; but the capital so	21.48
26	assigned to title insurance shall in no event be less than	21.50
27	\$100,000.	
28	Section 27. Subsections (9) and (10) of section	21.51
29	631.011, Florida Statutes, are amended to read:	21.52
30	631.011 Definitions.--For the purpose of this part,	21.53
31	the term:	

141-324A-10-3

1	(9) "Impairment of capital" means that the minimum	21.54
2	surplus required to be maintained in s. 624.408(3) has been	21.55
3	dissipated and the insurer is not possessed of assets at least	21.56
4	equal to all its liabilities together with its total issued	21.57
5	and outstanding capital stock, if a stock insurer, or the	
6	minimum surplus or net trust fund required by s. 624.407, if a	21.58
7	mutual, reciprocal, or business trust insurer.	21.59
8	(10) "Impairment of surplus" means that the surplus of	21.60
9	a stock insurer, the additional surplus of a mutual or	21.61
10	reciprocal insurer, or the additional net trust fund of a	21.62
11	business trust insurer does not comply with the requirements	21.63
12	of s. 624.408(3).	
13	Section 28. Except as otherwise provided herein, this	21.64
14	act shall take effect upon becoming a law.	21.65
15		
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141-324A-10-3

1	*****	1:1bs
2	HOUSE SUMMARY	1:1bs
3	Revises provisions relating to property and casualty	21.67
4	insurers. Requires the Department of Insurance to	21.68
5	implement a program to encourage additional insurers'	21.69
6	entry into the Florida market. Provides immunity from	21.70
7	civil liability for persons who provide the department	
8	with information about insurers. Requires residential	21.72
9	property insurance rate filings to include rate	
10	differentials for properties on which certain fixtures	21.73
11	have been installed and authorizes such rate filings to	21.74
12	include factors reflecting the quality of particular	
13	building codes and enforcement thereof. Provides for	21.76
14	adoption and use of a standard hurricane loss exposure	
15	model. Provides circumstances under which a	21.77
16	classification is immediately eligible for coverage in	21.78
17	the Florida Property and Casualty Joint Underwriting	
18	Association and activates coverage with respect to	21.79
19	commercial coverages of residences. Requires certain	21.80
20	provisions to be included in homeowner's policies and	
21	provides for rejection or selection of alternative	21.81
22	coverages. Authorizes the department to establish pools	21.82
23	of qualified adjusters for use in emergencies. Limits	21.83
24	cancellation or nonrenewal of policies that were subject	21.84
25	to the moratorium contained in ch. 93-401, Laws of	
26	Florida. Requires insurers to submit exposure reduction	22.1
27	plans to the department for approval. Requires insurers	22.3
28	to implement plans to avoid concentrations of property	
29	insurance exposures. See bill for details.	22.4
30		
31		

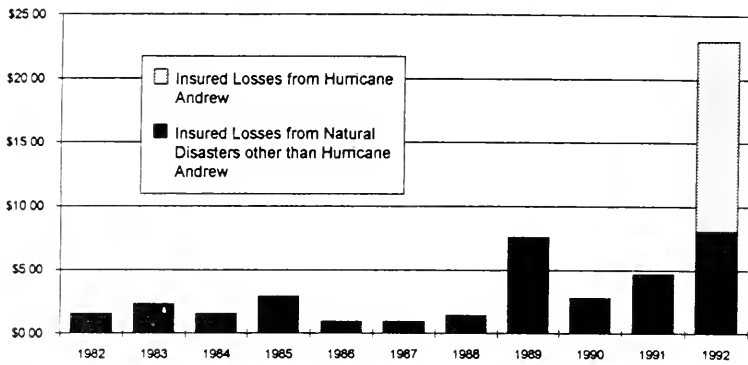
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HON. JOHN F. COSGROVE

GRAPHIC ILLUSTRATIONS

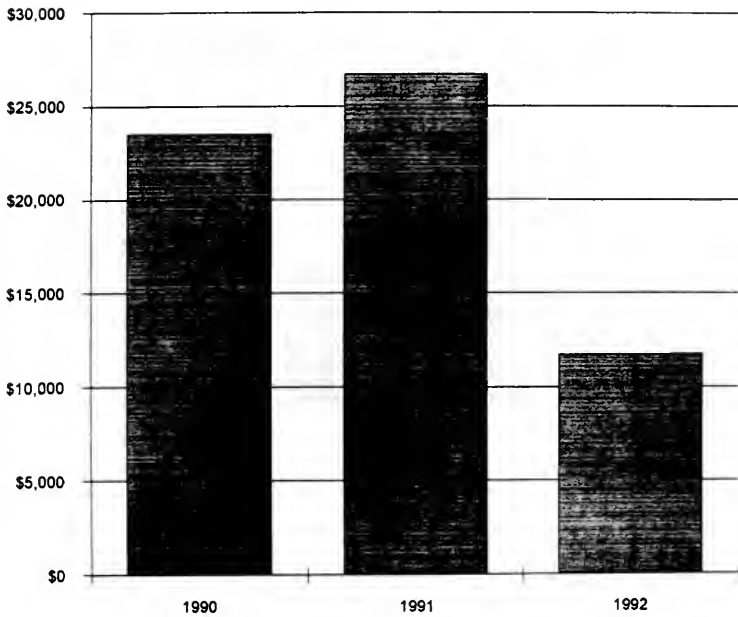
- I. INSURED LOSSES FROM NATURAL DISASTERS IN THE U.S.
- II. WORLDWIDE REINSURANCE INDUSTRY SURPLUS, 1990-1992
- III. MAXIMUM CATASTROPHIC REINSURANCE COVERAGE AVAILABLE TO ONE INSURER
- IV. PROJECTED AVERAGE ANNUAL HURRICANE LOSS BY STATE
- V. 10 INSURERS WITH LARGEST HURRICANE ANDREW LOSSES
- VI. 1991 PROPERTY INSURANCE GROSS PREMIUM BY LINE
- VII. DEPARTMENT OF INSURANCE PREMIUM PROJECTION FOR PROPERTY INSURANCE, 1993-1998
- VIII. HOMEOWNER'S INSURANCE MARKET SHARE AND SHARE OF HURRICANE ANDREW LOSSES
- IX. 10 INSURERS WITH GREATEST IMPACT ON SURPLUS FROM HURRICANE ANDREW LOSSES
- X. ALLSTATE EXPOSURE REDUCTION PLAN BY COUNTY (AS PRESENTED AT PUBLIC HEARING)
- XI. DISTRIBUTION OF HURRICANE ANDREW LOSSES BY LINE OF INSURANCE

CATTREND XLS Chart 2

Insured Losses from Natural Disasters in the U.S. (in billions)

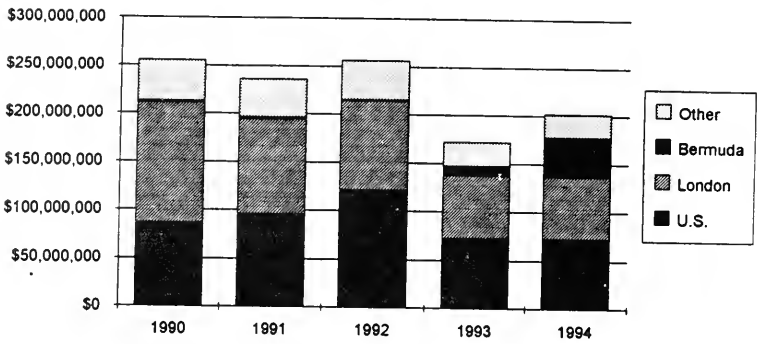
REINSURP XLS Chart 1

Worldwide Reinsurance Industry Surplus (Adjusted Shareholders' Funds), 1990-1992 (in millions)



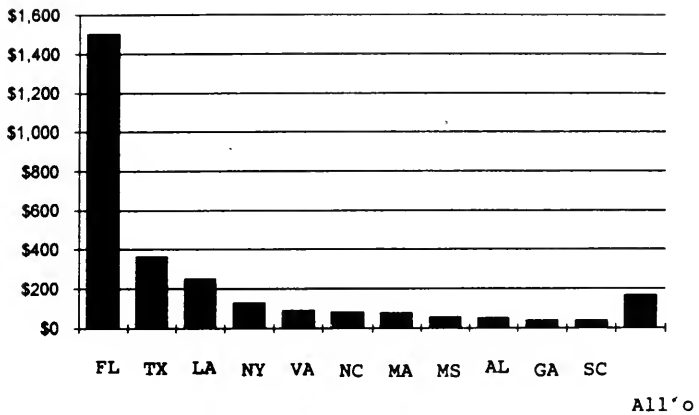
REINSCAP XLS Chart 1

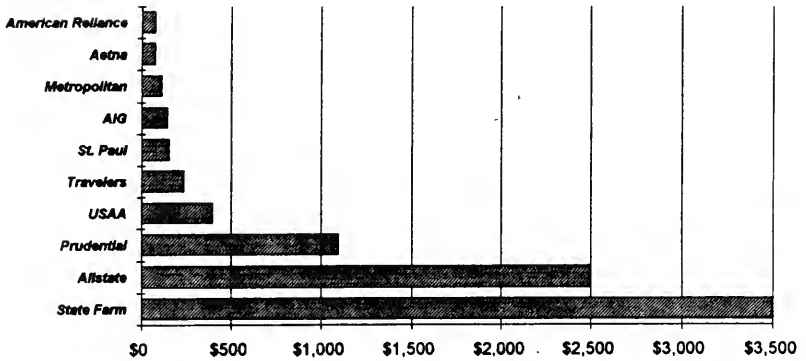
Maximum Catastrophic Reinsurance Coverage Available to One Insurer



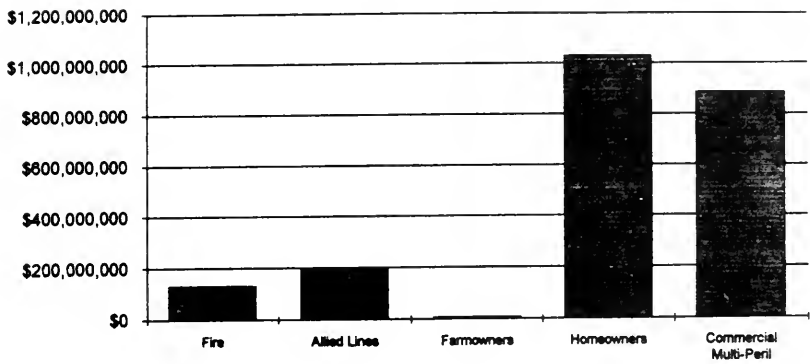
AVELOSS XLS Chart 2

**Projected Average Annual Hurricane Loss by State
(in millions)**

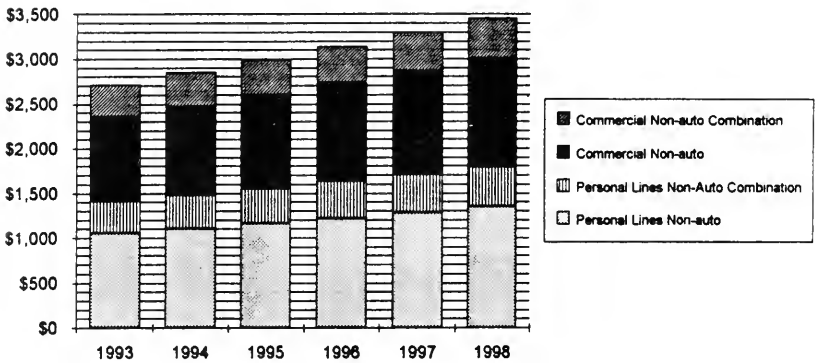


10 Insurers with Largest Hurricane Andrew Losses (in millions)

91PREM.XLS Chart 2

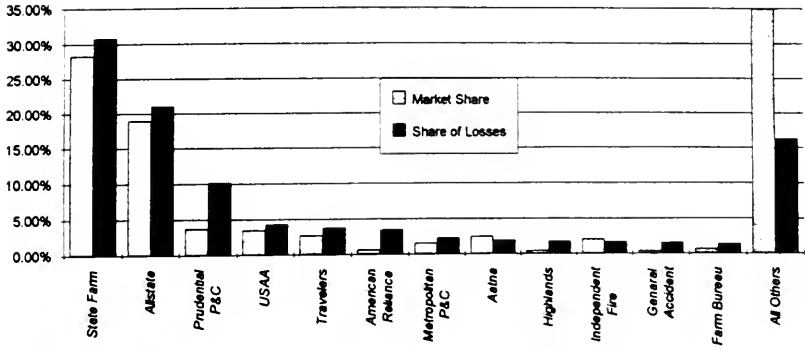
1991 Property Insurance Gross Written Premium by Line

Department of Insurance Premium Projection for Property Insurance, 1993-1998 (in millions)

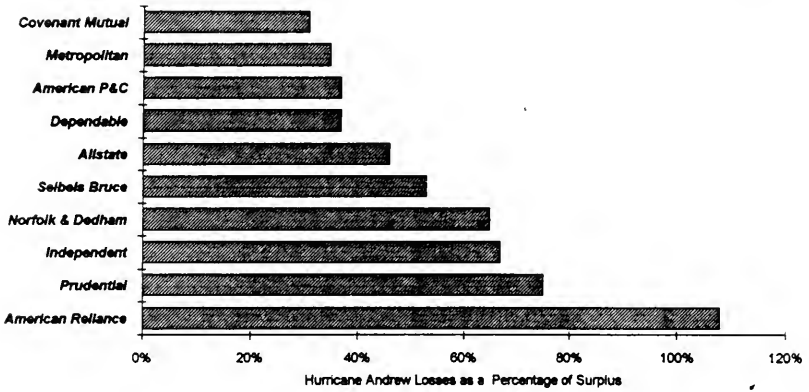


MKTSHARE XLS Chart 1

Homeowner's Insurance Market Share and Share of Hurricane Andrew Losses

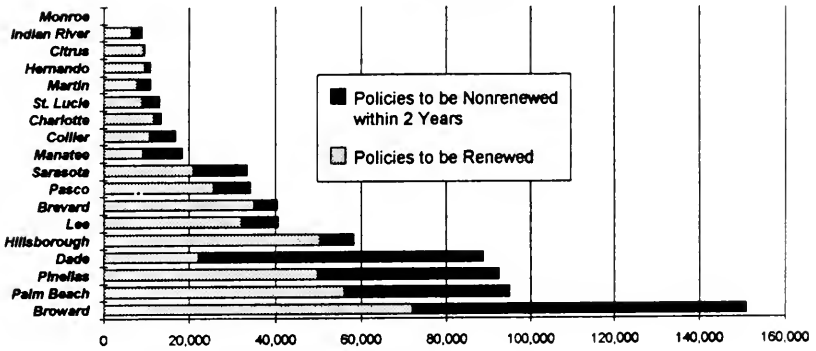


SURPLIMP.XLS Chart 1

10 Insurers with Greatest Impact on Surplus from Hurricane Andrew Losses

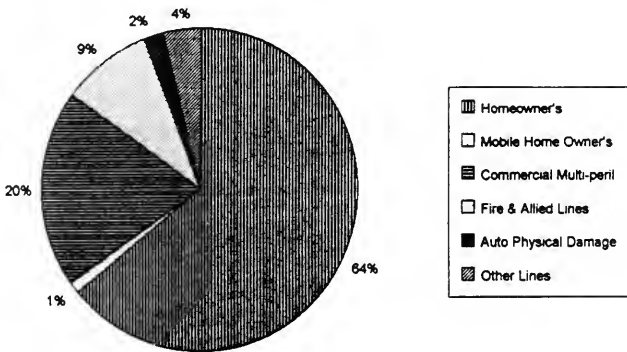
ALLSTEXP XLS Chart 1

Allstate Exposure Reduction Plan by County (as Presented at Public Hearing)



LOSSLINE XLS Chart 1

Distribution of Hurricane Andrew Losses by Line of Insurance



HON. JOHN F. COSGROVE

An outline map of the state of Florida, oriented vertically with the panhandle at the top. The map is white with a black border. Overlaid on the map is the title text and a compass rose.

AFTER THE STORM: A YEAR IN REVIEW
**An Intergovernmental
Perspective**

A Report on
HURRICANE ANDREW

United States Government



The damages inflicted by Hurricane Andrew's destructive sweep across South Florida on August 24, 1992, are unparalleled in the modern history of natural catastrophes. Thousands of people were left homeless, billions of dollars in property damage was incurred, and a massive intergovernmental response was required. In these twelve months since Hurricane Andrew's landfall, partnerships have been forged, responses have been initiated, and progress has been made.



State of Florida

The recovery story is a work in progress and will not be finished for years to come. Although four local jurisdictions were declared disaster areas, Dade County was the most severely impacted. Therefore, on this one year anniversary of the storm, we believe that it is important to provide a snap shot of the progress that has been made in the recovery process that is on-going in Dade County. This report provides an intergovernmental perspective that represents the cooperative efforts among the U.S. Government, State of Florida, Metro-Dade County and two of its municipalities towards full recovery.



The rebuilding process is well on its way, a new optimism is in the air, and life is approaching normalcy. Working together, we have come far, however, the real story rests with the spirit of cooperation that has surrounded this effort. Cooperation among various levels of government, the private sector, non-profit agencies, and most importantly the residents who were the victims of Andrew's onslaught, represents the partnerships that will continue to be the foundation for our progress as we move into the future.



While there still is a long way to go, homes to be constructed, lives to be rebuilt, businesses to be restored, and communities to be reclaimed, ***together we will rebuild, and together we will remain until the job is done.***

Local Government



US Government

Lawton Chiles
Governor

Arthur E. Teele, Jr.
Chairperson,
Metro-Dade Board of County Commissioners

OVERVIEW

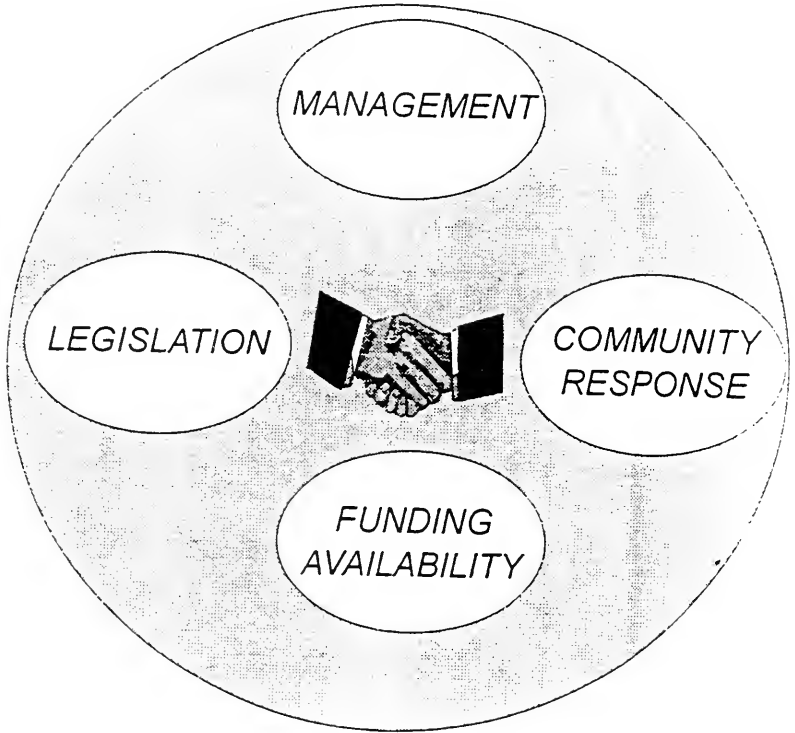
ANDREW'S WRATH

- The damages inflicted on the State of Florida by Hurricane Andrew make it the costliest disaster recorded in United States history.
- In Florida, 43 deaths were attributed to the storm; 15 directly and 28 indirectly.
- The estimates of total damages range from \$20 - \$30 billion.
- Although Hurricane Andrew caused minor local flooding, the majority of damage was caused by category 4 hurricane force winds
- Hurricane Andrew affected all of South Florida, however, the most intense destruction occurred in a highly populated 300 square mile area in south Dade County
- Approximately, 1.4 million people were without electricity, and 3000 water mains were damaged.
- Estimates indicate that 160,000 people were left homeless immediately following the storm.

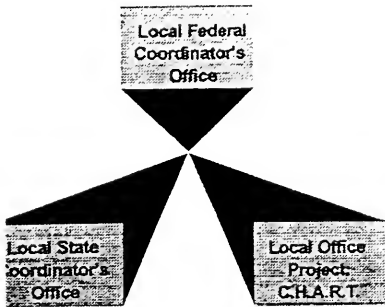
ANDREW'S DAMAGE

TYPE	DAMAGE
Educational Facilities	
K-12	278 schools damaged/\$300 million
Post-Secondary	4 damaged/\$61 million
Health Facilities	59 damaged/14 evacuated
Businesses	8,000 south of SW 88th Street
Agriculture	80% of 3,655 farms/\$1 billion total loss
Natural Resources	*10,112 acres of mangroves/2,800 killed *extensive damage to artificial reefs *75% (est) loss of lobster traps *2.8 miles of shoreline eroded
Recreation/Tourism	-More than 15,000 recreational boats -More than \$110 million to parks
Employment	100 000(est) jobs affected

PARTNERS IN RECOVERY



Management



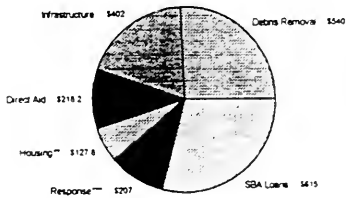
Legislation

- Congress authorized up to \$10 billion in grants and loans to areas affected by Hurricane Andrew, Iniki, and Typhoon Omar.
- The Florida Legislature appropriated \$464 million in excess sales tax dollars for hurricane recovery.
- More than 100 local ordinances and resolutions addressing hurricane related issues were adopted.

Funding Availability

\$2.1 Billion

(FEMA Amount in Millions)



Includes state counseling & unemployment
 Includes temporary and mobile homes
 Excludes military salaries

Community Response

- Ham Radio Operators provided first communication to the area.
- Thousands of volunteers and supplies from throughout the country poured into Dade County.
- The News Media in addition to providing information, delivered services and recruited volunteers.
- New local community and neighborhood organizations formed to assist in recovery efforts
- A non-profit coalition of local community leaders called We Will Rebuild has privately raised \$27.5 million for recovery efforts

PROTECTION OF PEOPLE AND PROPERTY

Impacts

- Hurricane Andrew resulted in the largest evacuation order ever given, requiring 516,000 people to leave their homes. Approximately 46,000 people sought refuge in 47 public shelters the night of the storm, and 9,000 persons used public transportation to get there. An additional five shelters were opened in the storm's aftermath and more than 100,000 people required shelter before the mass care phase (recovery) was over.
- The Metro-Dade Police Department operated on 12 hour shifts through December, 1992, and reassigned an additional 100 officers to the South Dade area through March, 1993, in order to stabilize the area.
- More than 29,000 military personnel were assigned by a FEMA Mission assignment to the South Dade area to assist in stabilizing the community. They constructed and helped in the operation of tent cities, food distribution sites, medical care, traffic operations, in addition to enhancing security in the first two months following Hurricane Andrew.
- County and municipal police stations, fire stations, equipment, communications systems, and vehicles (including two Fire Rescue helicopters) suffered heavy damage with some completely destroyed.
- In the weeks following Hurricane Andrew hundreds of homeowners discovered that their insurance coverage was not sufficient to repair their homes, and/or companies were unable to pay their claims. As rebuilding began many individuals, unfamiliar with construction matters, had difficulty securing the services they had paid for.

Progress

- ✓ The State secured the necessary financial resources to make sure that homeowners insurance claims were paid. Additionally, in order to respond to increasing consumer complaints a multi-agency strike force was formed to protect against construction fraud and to educate consumers in construction matters in the immediate aftermath of the storm.
- ✓ FEMA and the State of Florida have paid for emergency work, including additional police services. FEMA has provided \$1.75 million to provide special police patrols of the mobile home parks that are providing temporary housing for hurricane victims.
- ✓ A GAO study shows the federal government spent \$512 million responding (military, Corps of Engineers, equipment, supplies) to stabilize the disaster area following the storm.
- ✓ Damaged fire stations have been re-opened where possible or trailers have been set up to guarantee service to all areas. The Dade County Fire Department has revamped its hurricane disaster plan to accommodate the special demands and services required.
- ✓ Improvements in emergency communications are being made as the result of the County's decision to develop an 800 megahertz (MHz) radio communications system which will provide for the use of more frequencies, with less crowding and interference without dependence on towers that can be destroyed by high winds.

PHYSICAL ENVIRONMENT

Impacts

- The high winds and destruction caused by Hurricane Andrew created the equivalent of 30 years worth of debris. The issuance of citations and enforcement activity by Metro-Dade County increased more than 1000%, as a result of illegal dumping of hurricane debris.
- Metro-Dade County had more than \$23 million in damages to water and sewer facilities with three South Dade waste water treatment plants and numerous pump stations requiring extensive repairs.
- More than 200,500 building permits for repairs, construction, awnings, storm shutters, etc., have been issued by Dade County as of May 15, 1993. The City of Homestead alone has issued 11,587 permits since August 24, 1992.
- Approximately 2.8 miles of Dade County's shoreline was eroded by Hurricane Andrew.

Progress

- ✓ All water and sewer treatment systems are currently operational.
- ✓ State emergency response personnel helped protect water supplies and waterways from leaking underground storage tanks. EPA and the Corps of Engineers performed environmental testing, and in cooperation with Dade County, more than 20 hazardous waste spills were contained.
- ✓ FEMA approved \$527 million for debris removal; 20 million cubic yards have been removed, and more than 2,912 miles of roadway have been cleared of debris. Debris removal activities will continue through August, 1993. The County established a large-scale mulching operation to assist in debris disposal and as an alternative to debris burning.
- ✓ A massive Clean and Secure program has been undertaken by the County to either secure or demolish hazardous structures not under repair by owners. More than 84,000 homes have been inspected. FEMA is contributing to the funding for this program.
- ✓ The United States Department of Agriculture, Soil Conservation Service, has completed the clean-up of 223 miles of secondary canal systems in Dade County.
- ✓ The Army Corps of Engineers is replacing the sand along the 2.8 miles of Dade's shoreline, and the County is removing 35 exposed piling structures from the shoreline of central Key Biscayne that were eroded by Andrew. Work is scheduled to begin in August and may take up to one year.

TRANSPORTATION

Impacts

- Only 77 of the 2,200 traffic signals in Dade County were operating immediately after the hurricane and thousands of traffic control signs were destroyed. More than 11,000 street lights were damaged with more than 8,000 of them located south of Kendall Drive.
- In its immediate aftermath, Andrew brought a complete halt to all service operations for the County's mass transit system while at the same time creating an unprecedented need for transit services in the South Dade community.
- All five airports under the operation of the Dade County Aviation Department suffered damage as a result of the storm, with Tamiami Airport and Homestead General Airport experiencing the most severe damage. General aviation activities in Dade County were severely curtailed.

Progress

- ✓ The U.S. Corps of Engineers on a mission assigned by FEMA and the State moved swiftly to make sure roads and streets were quickly cleared. Traffic flow was aided by emergency road signage and message boards. The U.S. Forest Service cleared more than 134 miles of roads with chain saws.
- ✓ The movement of overweight/oversized trucks involved in the relief effort was facilitated, and tolls on the State's Turnpike System were eliminated for several months.
- ✓ Emergency inspections of bridges and overpass structures were conducted by the State.
- ✓ Approximately 14,000 traffic control signs have been reinstalled. Approximately 28,000 intersections still lack street signs. All signage is anticipated to be completed by October 1993.
- ✓ Temporary repairs to traffic signals damaged by the storm were completed in November 1992. However, permanent reconstruction of all signals south of Kendall Drive is necessary and is being contracted for by the Florida Department of Transportation.
- ✓ Repairs were completed to the street lights in December, 1992. The street lighting system along the US 1 corridor from SW 104 Street to Krome Avenue is under renovation by the Florida Department of Transportation.
- ✓ FEMA allocated \$40 million for Dade County to operate an emergency van service, engaging more than 300 vans and mini-buses to provide additional transportation service to the South Dade community through August 24, 1993.
- ✓ All hurricane damaged buildings at the five airports are currently under reconstruction or redesign and are scheduled for completion by June, 1994.

CULTURE, RECREATION, AND TOURISM

Impacts

- The City of Homestead lost virtually all its tourism dollars which account for 26 percent of the city's economic base. Major attractions in the South Dade area continue to report average year-on-year declines from 30-50 % in visitor traffic.
- The County's nationally recognized Metrozoo was heavily damaged and numerous animal displays were destroyed.
- Key Biscayne lost its entire hotel room inventory, leaving most of the island's businesses facing a dramatic drop in sales.
- Approximately 225 park sites were damaged throughout the county's park and recreation system. Extensive damage was done to the numerous mannas in Dade County.
- Of the 31 branches in the Miami-Dade Public Library System, four branches in the South Dade area sustained significant damage that necessitated closure.

Progress

- ✓ The State provided \$7.7 million to rebuild parks beaches, the zoo and other facilities and FEMA provided \$6.2 million for restoration of Metro Zoo, public libraries parks, Vizcaya, Fairchild gardens, mannas and replanting trees in public places.
- ✓ The State allocated \$7.3 million to Dade's Cultural Affairs Council to repair damages to facilities and loss of revenue by arts organizations and individual artists.
- ✓ In February 1993, the City of Homestead secured \$7.2 million from various non-profit organizations to help the city in rebuilding Hams Field. The new Homestead Community & Youth Complex will include restored football fields, bleachers, baseball diamonds and the construction of a community center, gymnasium, swimming pool, and child care facilities.
- ✓ The Greater Miami Convention and Visitors Bureau received funds to offset potential visitor and industry losses from international markets, and to increase visitor traffic to the South Dade area and attractions. A comprehensive tourism development plan for the South Dade area is being developed.
- ✓ County parks are open to some degree and summer programs have been able to continue as scheduled. Repairs are expected to take up to eight months for the renovation of the three most badly damaged mannas in the South Dade area. It is anticipated that fencing and sports lighting work will be completed by October 1993. More complex renovations may take up to two years to complete.
- ✓ Bookmobile services are being operated at three of the four closed branches and the service will continue until construction is completed in 1994.

HEALTH AND HUMAN SERVICES

Impacts

- Hurricane Andrew temporarily suspended all substance abuse treatment services in South Dade and destroyed the County's 16-unit Emergency Housing Center in Homestead.
- Four neighborhood community centers located in South Dade suffered major damage and two were forced to close, as was the County's South Dade Victims Shelter in Homestead.
- Two Head Start sites were destroyed and several others were severely damaged. More than 500 of the 1,200 clients served in South Dade were affected. Additionally, 80 percent of the elderly meal sites were severely damaged impacting 74 percent of the elderly clients served in South Dade.
- Jackson Memorial Hospital provided "medical shelter" to a total of 350 pregnant women, and approximately 50 chronically ill elderly individuals. This large number of patients severely strained the hospital's ability to provide efficient care to medical emergencies.
- Patient volumes in Jackson's Emergency Room peaked at about 500 percent of normal in the immediate aftermath of the storm. All scheduled surgeries were canceled in the first days and the out-patient clinics were closed for one week in order to make hundreds of nurses and other personnel available.

Progress

- ✓ State disease control and environmental health teams kept the spread of infectious disease and related health problems to an absolute minimum. The Military treated 67,000 medical cases.
- ✓ Eleven Federal Disaster Assistance Medical Teams provided essential first line medical services to victims during response phase. Mental health, crisis counseling and health services are provided directly to residents through state outreach teams. FEMA allocated \$18.5 million for crisis counseling directly related to storm-induced trauma.
- ✓ USDA issued up to \$74.8 million in food stamps assisting 581,000 persons.
- ✓ With one exception, all services for substance abuse treatment have resumed.
- ✓ The Goulds neighborhood center has reopened. Services are being provided from trailers while rebuilding is underway at the other three centers. Work should be completed at all neighborhood facilities by the end of 1993.
- ✓ Service is now being provided to 75 percent of the children previously served by the Head Start program in South Dade and service has been restored to all but 112 senior citizens previously served by the meals' programs. It is anticipated that it will take at least one year to fully restore all facilities to pre-hurricane conditions.
- ✓ Direct State aid was provided to elderly residents in the form of emergency food supply, home health aides, emergency alert response, chore services and other programs specific to their needs.
- ✓ FEMA gave a \$10 million grant to the State of Florida's Health and Rehabilitative Services to meet emergency needs at hospitals.

HOUSING

Impacts

30 percent of Dade County's total housing stock was destroyed.

37,876 homes were damaged, with more than 30% suffering major damage or destruction.

30% percent of South Dade's mobile homes were destroyed.

According to a May 1993 study by the Metro-Dade Planning Department, 47,100 housing units were lost resulting in the relocation of 101,000 persons.

Approximately 1,000 homes will require elevation under the Flood Elevation Rules.

Hurricane Andrew displaced or affected more than 5,000 Dade County public housing residents and significantly damaged 1,624 units throughout the county resulting in more than \$58 million in damages.

Approximately 2,000 migrant workers were left homeless by the storm.

Progress

- ✓ FEMA provided 52 million square feet of plastic roofing materials at a cost of \$27.6 million. Federal agencies set up four tent cities to temporarily house, feed, and secure victims immediately following storm.
- ✓ The Andrew Center was opened within 90 days to provide 500 housing units, laundry facilities and a day care center to migrant worker families and a housing facility for single men has been completed.
- ✓ The County's Life and Family Support Center provided transitional housing to more than 125 families in cooperation with the St. Ann's Mission in South Dade. This facility has been closed and the families relocated to a variety of alternative housing locations.
- ✓ FEMA allocated \$127.6 million to 46,982 families for temporary housing needs, including 3,512 mobile homes and travel trailers at peak.
- ✓ FEMA assisted in the repair of HUD properties and is providing temporary housing for more than 300 residents of public housing while building repairs are underway. All hurricane-related repairs to public housing units should be completed by early 1994.
- ✓ An additional \$22 million in excess state sales tax money has been allocated through the Florida Housing Finance Agency to meet housing needs in the area.
- ✓ The State has made \$18 million available for assisting homeowners in meeting flood elevation and new building code requirements.
- ✓ Direct state contributions for housing for Dade County include \$19.8 million in HOME funds. Twenty-three RFPs have been received for HOME Disaster funds representing \$37.8 million in requests to construct or rehabilitate 1,773 units of housing.
- ✓ More than 1,000 assisted housing units in the South Dade area are under repair or rehabilitation. It is anticipated that the large majority of the assisted housing units located in South Dade will be repaired by the fall of 1993.
- ✓ Approximately 500 units of housing are either under construction or are planned for development in the South Dade area by various not-for-profit organizations.

COMMUNITY AND ECONOMIC DEVELOPMENT

Impacts

- Homestead Air Force base was destroyed by Hurricane Andrew. Homestead Air Force Base had a total economic impact of \$405.6 million (in 1991), employed 8,600 on-base personnel, created 2,701 off-base jobs, and provided services to more than 30,000 military retirees.
- Nearly 80% of the 3,655 farms in South Dade suffered damage from Hurricane Andrew. The agriculture industry is the second largest industry in Dade County, after tourism, and was a major employer in the South Dade area.
- It is estimated that it will take approximately 3-4 years for fruit crops to regain full production, and approximately 600 of the 750 pre-hurricane nurseries in South Dade are still in the recovery process.
- It is anticipated that approximately 20 percent of the pre-storm existing businesses in the South Dade area will not reopen. Hurricane Andrew destroyed or heavily damaged the following industries and employers in the South Dade area:
 - Homestead Air Force Base
 - Burger King Corporate Headquarters
 - American Bankers Insurance Company Headquarters
 - The Cutler Ridge Mall
 - Agriculture
 - Tourist/Visitor Attractions

Progress

- ✓ Following the recommendation from the Base Closure and Realignment Commission, President Clinton has approved the realignment of Homestead Air Force Base (HAFB) as a joint military/civilian operation. The return of two military reserve units and the Air National Guard will immediately restore 1,800 jobs.
- ✓ Dade County and the Beacon Council will continue the coordinated efforts with the military, the State of Florida, the county's aviation department, and other businesses in the implementation of the proposed HAFB reuse plan.
- ✓ The Burger King Corporate Headquarters and the American Bankers Insurance Company Headquarters are scheduled to reopen in August of 1993. In addition, The Cutler Ridge Mall is scheduled for an opening in the spring of 1994 and the vast majority of tourist attractions in the South Dade area have already reopened.
- ✓ State sales tax funds in the amount of \$7.5 million are earmarked for economic development in Dade County, and the State has allocated \$33 million for Community Development activities.
- ✓ The Economic Development Administration in the U.S. Department of Commerce has processed \$52 million in grants for redevelopment projects.

LESSONS LEARNED

The following pages provide a brief overview of the changes made by each level of government to improve their ability to respond to future disaster situations.

FEMA'S NEW DIRECTIONS

MITIGATION

Mitigation is the cornerstone of the national emergency management edifice. We cannot stop catastrophes from occurring, but we can reduce the costs of the damage they cause. We must build to standards that ensure survival in a worst-case disaster scenario and these standards must be enforced.

NEW PARTNERSHIPS

Develop a new partnership among federal, state, local and private emergency response agencies. Decision making will be collegial. Special needs of individual jurisdictions will be identified and response to disasters will be predicated on these individual needs. Pre-disaster agreements will be encouraged among neighboring states to help each other with equipment and staff in times of catastrophe.

ALL HAZARDS APPROACH

Adopt all-hazards approach in planning and responding to natural or man-made catastrophes with funding to state and local emergency management agencies based on this philosophy. Each state will be able to plan responses based on real risks they face instead of generalized federal requirements. For example, coastal states can spend more federal planning dollars to prepare for hurricanes.

EARLY RESPONSE

Emphasize early response to catastrophes by all federal agencies. Special federal teams will be in state headquarters before a disaster strikes to work with state on quick damage assessments. FEMA is working with all federal agencies on an Initial Response Package which identifies resources, such as generators, provisions, and communications equipment, which can be brought in quickly to stabilize a disaster-stricken community.

EXERCISE PLANS

Federal, state and local agencies must plan for disasters and these plans must be tested frequently. A disaster is not the place for emergency management personnel to meet each other for the first time. Director James Lee Witt has allocated one percent of FEMA's Emergency Management Assistance Fund to pay for disaster exercises in 14 states next year.

IMPROVING HURRICANE PREPAREDNESS IN FLORIDA

Improve Communications At and Among All Levels of Government:

- State Emergency Response Teams (SERT) have been set up, comprised of representatives of the Division of Emergency Management and other state agencies, to act quickly and effectively when the state is threatened. They are put in place before disaster strikes.
- The State warning point, a 24-hour communications center at the Department of Community Affairs, is being patched into the Doppler radar system.
- To help forecast storms, one additional Doppler radar system is being installed in the Tampa area (more will be placed on line as quickly as possible) and the National Weather Service has agreed to install another weather buoy in the Gulf of Mexico.
- The Florida Department of Community Affairs has created a series of public service announcements and a half-hour TV program on hurricane preparedness which will be distributed to every TV station in Florida.

Strengthen Plans for Evacuation, Shelter and Post-Disaster Response and Recovery:

- The American Red Cross's State Coordinator's Office has been located in the Division of Emergency Management
- Emergency operation centers in non-impacted counties will be used as staging areas for relief efforts.
- The role of every state agency has been identified to ensure readiness and distribution of supplies.
- In order for disaster response to be proactive and not reactive, impact assessment teams will be in place and move rapidly to determine relief needs and assess damage to infrastructure immediately after a disaster hits.

Enhance Intergovernmental Coordination:

- A permanent State Coordinating Office for Disaster Recovery has been installed in Miami.
- The state Director of Emergency Management has met with FEMA director James Lee Witt to discuss ways to improve all aspects of preparedness and response.
- State and County emergency management directors continue to hold meetings on matters of procedure regarding community response in the event of a disaster.

Improve Training

- Videos are being produced to ensure County emergency officials and local elected officials know the process the State will follow during a disaster.

REFINING THE LOCAL RESPONSE

COMMUNITY PLANNING

There is a critical need for a local system to organize and deliver emergency information, care and resources immediately following the storm along with a comprehensive system that coordinates federal, state and local plans. Dade County is taking the lead in coordinating the appropriate local agencies to develop this type of system.

The Met-Dade Office of Emergency Management (OEM) is emphasizing the importance that each person, family, business and organization has an adequate hurricane plan. OEM is conducting public information campaigns that incorporate lessons learned from Hurricane Andrew, offering technical assistance to anyone requesting it, and working to increase local shelter capacity.

PUBLIC INFORMATION

To educate the public on the Federal Flood Elevation Requirements (50% Rule), GIS maps indicating the locations of flood-prone areas have been developed, databases that include property ownership information are being established, and educational materials will be distributed to educate homeowners.

In response to the numerous landlord and tenant disputes following the hurricane, a series of small claims court clinics were designed and conducted and free literature packets were provided to consumers on how to protect themselves. In response to retailers and landlords raising prices and rents during an emergency, an ordinance has been drafted to prohibit such practices in times of future emergencies.

As a result of the numerous phone calls for public information and assistance, a resource data retrieval system is under development enabling the County to provide a broader degree of assistance.

TRANSPORTATION

The use of private contractors already onboard enabled MDTA to restore services and pool resources to mobilize over 200 additional vehicles in the South Dade area within 66 hours of the disaster.

Before and after photos of the airport facilities proved essential in discussions with insurance carriers and FEMA enabling them to determine damages even after emergency repairs were made. In addition, structural failures of airport hangars were studied and design standards have been revised and issued by the Aviation Department for their facilities.

TELECOMMUNICATIONS

Virtually all agencies involved in the delivery of critical health and safety services experienced significant telecommunications problems. Improvements include the purchase of a new 800 MHz radio system, the upgrading of Jackson Hospital's phone and intercom systems, and the enhancement of cellular and satellite communications.

PHYSICAL ENVIRONMENT

To improve the response to hazardous materials spills following the storm, the Department of Environmental Resource Management (DERM) will provide each response agency with hard copies and computer disks of maps locating all hazardous facilities. Additionally, DERM will continue to make others aware of the importance of shut off valves for gasoline dispensers, emphasizing the high effectiveness of their use in preventing major fires during the disaster.

As a result of Metro-Dade's experience with debris disposal following Andrew, it has been demonstrated that mulching of woody debris is a viable and cost effective alternative to burning. It is recommended that burning be eliminated or minimized to the maximum extent possible, with burning sites west of Krome Avenue and as far from residential property as possible. Also, debris stock piles and processing sites will be pre-designated.

The Board of County Commissioners has approved a series of amendments to the South Florida Building Code and more will be submitted for consideration. Changes include such things as stringent test requirements for roofing materials, more detailed construction plans for permits and the inclusion of a structural plan review performed by an experienced structural engineer from the building department.

Inspection and plans review assistance from other counties is extremely beneficial following a disaster. Inter-local agreements will be developed with other jurisdictions and the South Florida Building Code will be amended to include regulations and procedures for emergencies such as Andrew.

HEALTH AND HUMAN SERVICES

Jackson Memorial Hospital found that it needed to mobilize its services in response to medical needs following the hurricane. This will be accomplished in the future through the use of a fully equipped van purchased by the University of Miami School of Medicine after the hurricane. Jackson is now looking for ways to expand this capacity for future emergencies.

The lack of potable water and sufficient water pressure seriously impacted on hospital operations. Both water storage and water pumping capabilities have been improved at Jackson to enable the hospital to operate more efficiently during future emergencies.

Social Services need to be an integral part of the disaster plan with special emphasis on training in post disaster counseling, the provision of assessment teams and the inclusion of additional services such as home repair, emergency transportation and drop-in child care.

GOVERNMENT OPERATIONS

Post-disaster assessments have been made to develop more accurate emergency supply lists, adjustments have been made to local procurement regulations to provide greater flexibility during a disaster, emergency items have been stocked and strategically stored, generators have been repaired and purchased, and emergency fueling procedures are in place to better enable County departments to restore services and respond to emergency needs.

Departmental plans did not include procedures to receive the tremendous assistance that was offered by organizations across the country. Plans now provide for the utilization of outside assistance to include mutual aid agreements and pre-designated responsibilities, teams, resources and command posts.

PERSONNEL

In order to improve the mobilization and assignment of staff, departments have updated employee rosters, required supervisors to have hard copies at home, established emergency reporting assignments, conducted pre-disaster cross-training for non-essential staff and established pre-designated command posts. Police and Fire departments are working to locate shelters for family members to insure their safety while the employee is on duty.

Many County employees became hurricane victims, requiring managers to employ innovative and unusual personnel policy decisions to accomplish the delivery of services under extreme conditions. The County's Personnel Department will hold training sessions for senior managers to discuss the importance of a dynamic organization during emergencies.

TOURISM

In a community where more than one-third of the jobs are directly or indirectly tied to the tourism industry, it is critical to communicate the state of the visitor industry during a crisis. The Greater Miami Convention and Visitors Bureau executed more than 100 different initiatives to inform travelers about the state of our community, letting consumers know that they could still travel to Greater Miami. A Crisis Task Force and Emergency Reserve Fund have been established to respond to future disasters.

ACKNOWLEDGMENTS

Our road to recovery has been paved with the time, contributions, and dedication of thousands of individuals who came to our community in what was our most desperate hour. More than 27 Federal Agencies, 29,000 military personnel, hundred's of State employees, churches, non-profit agencies, Red Cross volunteers, the Salvation Army, and literally thousands of people from across the country, the State and South Florida, have been involved and remain involved in efforts that will insure our ultimate recovery. We are deeply grateful to all who came, the unsung heroes and heroines who gave of themselves without question or demand for recognition.

Our success is their tribute.

November 1, 1993

TESTIMONY

U.S. HOUSE OF REPRESENTATIVES
 Subcommittee on Consumer Credit and Insurance
 of the
 Committee on Banking, Finance and Urban Affairs
 Joseph P. Kennedy II
 Chairman
 One Hundred Third Congress
 Room 604 O'Neill House Office Building
 Washington D.C. 20515

Submitted by:
 Tim McWilliams
 President
 McWilliams Marketing Inc., Realtors
 492 East Eau Gallie Blvd.
 Indian Harbour Beach, Fl. 32937

Congressman Kennedy and Members of the Subcommittee:

Thank you for taking the time to hear the plight of those currently most affected by the windstorm insurance crisis, Floridians.

I believe it is important for you to understand that this is not just a single state issue. What if Andrew had taken its misery north to ravage the Eastern Seaboard or south to miss Florida completely and aimed its full fury at the Gulf Coast. You could just as easily be in some other state dealing with some other constituency. No, this is not just a single state issue, as the 20 plus year drought in Africa comes to an end, this issue is here to stay.

As a Realtor and Developer/Builder my three primary concerns regarding property and casualty insurance is that it is Available, Affordable and Financially Sound.

Availability is the most significant. If insurance is unavailable to potential home buyers our economy will come to a screeching halt. Huge layoffs would commence with job losses in the construction, banking and the real estate industries, property values will plummet and the ripple effects will be enormous. All this would be magnified by the devastation of catastrophic storm damage.

Although we had no damage from the storm, we experienced some of this fear and uncertainty in our local markets after Andrew, prior to the formation of the J.U.A.. Previously, home buyers could expect to receive as many quotes for insurance as they deemed appropriate to pursue. Soon after Andrew, it became apparent that free market competition was a thing of the past as availability became our only concern. A home buyer would likely call 10 or more companies to get one quote. In this process one always had the fear that they just might not be able to get insurance. Imagine if you will, what it would feel like if you woke up tomorrow and you and your neighbors could no longer sell your homes because buyers cannot get insurance, it can truly make you apprehensive.

We in Florida are living under a false sense of security as the insurance industry prepares to cancel over 1 million policies statewide. We must devise a system that ensures the availability of reasonably affordable insurance to all. The state of Florida's short term solution has been the formation of the Joint Underwriting Association, however the long term financial viability of this plan is being questioned by experts.

In the long run however, as homeowners if we cannot afford insurance the effects on the economy will be the same as if it were unavailable. For example, an agent from my office recently had a contract on a house where the buyer made it contingent on the availability of affordable insurance. The contingency allowed for a premium of approximately twice the seller's current premium. The buyer proceeded to qualify for his mortgage while searching for affordable insurance. Before closing the contract fell apart as the buyer could not find insurance for less than twice the current premium. Probably the most frustrating fact for the seller was that the buyer was a State Farm Agent.

But being affordable is more than an issue of discretionary income to most American's. It can mean the difference between a home of their own and no home at all, as this along with many other costs continue to drive up the cost of home ownership.

Financial soundness is crucial to the long term viability of any solution. The fundamental theory behind insurance is simple, diversify the risk over the broadest possible base. The State of Florida short term solutions of a moratorium on the cancellation of policies and the formation of a statewide J.U.A. are only band-aids to hide problems that reach much deeper.

I am certainly no expert when it comes to insurance, my knowledge does not extend past buying my personal policies and a few insurance classes at the University. Although it seems logical to me that we have an opportunity to prevent the uncertainty and instability that has plagued Florida's insurance markets from happening to other Americans. It is my belief that we should develop a nationwide windstorm pool. We must be cautious as not to form another layer of government bureaucracy, nor should this be an additional burden to the taxpayer. The solution should never preempt the competition of free market system. This bondable fund should only be utilized for catastrophic events with certain high thresholds for payout. Participation would need to be mandatory for all insurance policies within potentially affected areas of the United States to ensure the greatest diversity of windstorm risk. The funding could come from a portion of the premium charged by the insurance companies or a windstorm surcharge. Safeguards should be designed into the system to prevent overpayment in the event of a disaster, keeping the administration costs as low as reasonably possible and preventing the insurance companies from profiting from this fund. If necessary, an independent citizens committee could be formed to monitor the fund to help prevent abuses. In its simplest terms this would be a federally sponsored reinsurance fund for catastrophic windstorm disasters.

This windstorm fund would ensure the availability of insurance to all those at risk of catastrophic windstorm damage. This would return certainty to our real estate markets in many areas. Also this windstorm fund, if structured correctly could have the overall effect of reducing insurance rates by spreading the risk across a broad base of policy holders. The financial stability of the plan would be assured with the ability to bond the fund's losses.

As a nation we are facing an insurance crises. The loudest public outcry won't be heard until mother nature releases another monster storm against the United States. Andrew has taught us many lessons but it is up to us to take note and to learn from them. Imagine the cost of the storm if the eye would have landed 20 or 30 miles north in the heart of Miami or Ft. Lauderdale. Can the insurance industry absorb 40 or more billion in losses? and if not we know who would end up paying. Let's prevent the taxpayer bailout of the insurance industry before disaster strikes again. Take this opportunity to pass legislation that will ensure that financially viable windstorm insurance is available and affordable to all Americans.

Statement Of

PATRICIA BURNS TAYLOR

Director, Loan Administration

BARNETT MORTGAGE COMPANY

Jacksonville, Florida

Member of 1993 Study Commission

On Property Insurance And Reinsurance

Before

The Subcommittee on Consumer Credit and Insurance

Field Hearing

November 1, 1993

Melbourne, Florida

Mr. Chairman, members of the subcommittee:

Effective May 19, 1993, the Legislature through Chapter 93-401 Laws of Florida imposed a moratorium which stated that no insurer authorized to transact insurance in this state shall, until the expiration of this subsection, cancel or non-renew any personal lines property insurance policy in this state, or issue any notice of cancellation or non-renewal, on the basis of risk of hurricane claims.

At the same time, a thirteen-member commission on property insurance and reinsurance was established. The commission was chaired jointly by John Cosgrove, Chairman of the Committee on Insurance of the House of Representatives and John Grant, Chairman of the Committee on Commerce of the Senate. The commission members appointed by the Governor included the Insurance Commissioner an additional Senator and member of the House, four insurance consumers, a representative of insurance, a representative of insurance agents, a representative of reinsurance, and a representative of mortgage lenders. I was pleased to serve on that commission as the representative of mortgage lenders. We were charged by law with the aggressive goal of reporting our findings to the governor by September 15, 1993 and did so through the majority and minority reports of the Study Commission on Property Insurance and Reinsurance. Because of the time spent on that commission, your chairman requested my testimony today and asked that I address certain issues.

The first issue is, "What effect has the threat of a major insurer pull-out had on the banking industry in Florida?"

The effect has been one of speculation and uncertainty, both of which are counterproductive to our industry at a time when our challenge is to provide high product quality, affordable price and excellent customer service to the consumer of the State of Florida. Frankly, the moratorium has effectively prohibited non-renewals and cancellations, but it has not ensured securing a policy in high-risk areas, even at a higher premium.

Forty-four companies have submitted plans to withdraw either completely or partially from the Florida market. These insurers have declared the intent to cancel or non-renew about 840,000 policies, mainly residential. Again, these numbers do not address the difficulties new purchasers or consumers interested in refinancing have found in securing new policies.

Many companies may have participated in the threat of withdrawal simply to position themselves for negotiation. I believe that the insurance industry, its capacity, availability, and affordability will never be the same as it was prior to Hurricane Andrew.

"Please indicate your position on the findings issued within the report."

In general, I agree with the findings issued within the report of the study commission, including the recognition that this situation warrants compromise on all sides and that ultimately we will have "some combination of increased costs for insurance, adjustments in coverage, and hopefully, improved means of mitigating the risk of hurricanes."

However, there are a few areas within the report that require further clarification:

1. Uniform Geographical Territories I believe the recommendation requiring insurers to use uniform geographical territories for the purpose of rating homeowners' policies is anti-competitive and will result in increased costs for the consumer without a comparable increase in value and may cause adverse consequences to the public, leading to the absence of insurance coverage at any cost in a high risk area. Some insurance companies have done well over the years using their area models and identifying risk on an individual basis.

Others have allowed aggressive sales goals rather than risk evaluation to influence them. But Andrew taught us all a great deal about concentration of risk that does not need to be mandated by the Department of Insurance. While premium should be tied to risk evaluation, the idea of mandated requirements of uniform geographical territories for the purpose of rating policies by location is too restrictive and does not promote additional capacity.

2. Non-Renewal While I agree that any insurer who needs to re-evaluate their concentrations of risk in a given geographical area should do so and submit the required plan to the Department of Insurance to ensure that any plan for non-renewal makes sense and would result in an orderly transition. The Commission recommendation went beyond that to mandate that no insurer shall be allowed to cancel or non-renew its in-force policies in excess of 5% to any designated risk area in any one calendar year. There is a proposed sunset of the law in three years. My concern is that insurers will view this as a continuation of the moratorium. I would prefer that prior to non-renewal or cancellation, a plan of operation would have to be submitted to the DOI and approved. The development of a fair plan might result in less cancellations and non-renewals than the flat 5% per year plan which does not require justification beyond "concentration of risk."
3. Another recommendation goes further than the existing moratorium by granting the Insurance Commission the authority to suspend the certificate of authority of affiliates writing other lines of business when an insurer seeks to withdraw from the homeowners' market. This "lock-in" provision will be a strong deterrent to companies writing any new policies in high-risk areas of Florida and will have just the opposite effect of discouraging insurance coverage for risks unrelated to the current insurance problems.

4. CAT Fund The catastrophe fund proposal recommended by the Florida Insurance Council had a number of points with which I would agree:

- Trigger — Hurricane of category 4 or 5; also a 3 if the dollar amount of gross estimated insured property losses in the state exceeds three times total net direct written premium for property insurance or eligible property written in the preceding year. (Currently, three times premium equals approximately \$7.2 billion.)
- Amount of Coverage — The fund pays a specified percentage of each claim for losses to covered property arising out of a covered event (the insurer, referred to as "servicing facility," pays the remainder); the fund's percentage is as follows: July 1 — December 31, 1994, 30%; calendar 1995, 35%; calendar 1996, 40%; calendar 1997, 45%; subsequent years, 50%; fund provides law and ordinance coverage only if it is provided in the underlying policy. It also allowed for companies to project what their liability might have been.
- Funding was a compromise, but the proposed alternative called for 10% as an annual assessment to insurers, a 5% surcharge against policyholders, and the additional emerging assessment of 2% levied against all property and casualty premiums in the event of a catastrophe.

As we speak, the Insurance Committee is working on a proposal which has attempted to blend the best ideas of all parties who have contributed recommendations for a CAT plan. The only real issue is that we implement one which will help to form the foundation of a plan to keep insurance available and affordable for all consumers in the State of Florida.

Do you think that the Joint Underwriting Association is a sufficient replacement if insurers are allowed to cancel or non-renew policies once the moratorium is lifted?

No; unfortunately while Dr. Bax and the members of the Joint Underwriters Association's Board of Directors and staff are working tirelessly to keep up with the present flow of applications and have positioned themselves to be ready in the event that the moratorium were lifted, the JUA simply cannot make up the capacity that would be lost by reduction in the voluntary market.

"What do you anticipate will happen after the moratorium is lifted on November 15, 1993 if no action is taken?"

While August 24, 1992 seems like a long time ago, the hurricane which made landfall that day in South Florida cutting a 30-mile wide path of destruction from the east coast to the west coast is still very real to those people who were personally involved and financially and emotionally impacted. We heard from many of those people during the public testimony sessions held by the Commission. Sensitivities have been raised and an extraordinary education process has taken place. A matrix of the best ideas was outlined and submitted. Many members of the House Insurance Committee, the Senate Commerce Committee, members of the Department of Insurance, and the Commission worked to put together a comprehensive recommendation to Governor Chiles, and he in turn has charged the special session of the legislature to address and resolve the issue. I believe they will take that charge seriously, put aside any personal agendas, and effect a solution.

TESTIMONY OF JOSE M. "PEPE" ALVAREZ
BEFORE THE
SUBCOMMITTEE ON CONSUMER CREDIT AND INSURANCE
OF THE
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS
U. S. HOUSE OF REPRESENTATIVES
NOVEMBER 1, 1993

Mr. Chairman, members of the subcommittee, I want to thank you for the opportunity to present my views on the issue of the availability and affordability of insurance in areas at risk of natural disasters. My name is Jose M. Alvarez, "Pepe", to all those who know me. I am Chairman and President of AIB Financial Group, Inc., the parent company of Union American Insurance Company, a small property and casualty insurance company licensed and doing business only in Florida. I am a Cuban-American. I was born and raised in Cuba and came to the United States seeking freedom and opportunity in 1961 at the age of 17. I came to this country penniless and, in a lot of ways, I represent what the American dream is all about. Today, I own a small insurance company here in Florida and, like many of my peers in the industry, face the possibility of losing a lifetime of effort. Without positive and constructive action by Congress and our insurance regulators, small entrepreneurial insurance companies such as mine which provide a needed and valuable service to our community will disappear.

Let me illustrate the predicament we find ourselves in. Please refer to Exhibit A attached to the copy of my

testimony. Under present conditions, every time I sell a new policy I dig my own grave a little deeper. Unless you can find a way to make catastrophe reinsurance affordable once again, I must withdraw from the market or loose my business. We are faced with an unaffordable reinsurance market and a Federal Income Tax law which forces us to pay taxes even when the company incurs a loss for statutory reporting purposes and its capital and surplus is depleted.

You have asked me to address several specific issues; I will now attempt to do so: WHAT EFFECT HAS THE THREAT OF A MAJOR INSURER PULL-OUT HAD ON THE INSURERS LOCATED IN FLORIDA?

Government regulators must create the appropriate business environment for the private sector to provide the goods and services which the people need and wants. There are events which the private sector could never handle alone and only government possesses the resources to do so.

The vacuum created by threatened pull-out would have to be handled by the government run residual market. But is this really the answer to the problem? Is the exposure to another catastrophe such as Hurricane Andrew different for the residual market than it was for the private sector before Andrew? We believe that the answer is "No". The reserves of the RPCJUA will not be built fast enough to cover the losses which would result from another catastrophe like Andrew and, the private companies still providing coverage continue to be exposed to major losses and ultimate insolvency should such a disaster occur. Where will the funds and resources come from

to handle another major catastrophe? From the government, from a mechanism which will provide a safety net to protect the private sector in case of the unexpected catastrophe. A national catastrophe fund as suggested by our Treasurer and Insurance Commissioner, Tom Gallagher. To fund it, charge the insurance buying public its fair share and identify the cost separately on the face of the policy. The American public has shown that it is knowledgeable enough to accept the necessity for such a fund and, I believe, will be willing to pay for it.

POSITION ON THE FINDINGS ISSUED WITHIN THE REPORT OF THE STUDY COMMISSION ON PROPERTY INSURANCE AND REINSURANCE.

I concur with most of the findings of the Commission on Property Insurance and Reinsurance; however, I have a hard time reconciling their findings with some of their proposed solutions. Let me address these issues in the order in which the Commission lists them in its report:

RATES AND FORMS

The commission finds that prior to Hurricane Andrew rates were too low to adequately account for catastrophic risks. An absolute reality! The Commission recommends that coverage be extended to provide "replacement cost coverage" and "law ordinance coverage" it fails to insist, however, that rates be immediately raised to a level high enough to correct the inadequacy originally identified. It also fails to state that such "adequate rates" would probably be unaffordable to the average home or business owner, unless the proper

mechanism is created to spread catastrophic risks over a much wider base. I suggest that only the Federal Government can provide such a mechanism! The Commission suggests that the Department of Insurance should adopt by rule a standard hurricane exposure model. I submit to you that this model is complex enough and

significant enough to warrant careful study and consideration and that it should not be implemented by rule or by any other mechanism without the benefit of full and open hearings and the total participation of the private sector.

MARKET PRACTICES

The Commission encourages the Department of Insurance to take an active role to attract new insurers to Florida. Simultaneously, the Commission concludes that the Department should revoke the Certificate of Authority of any carrier withdrawing from the homeowners' market. These are incompatible recommendations. What reasonable business person will commit its company's resources to enter the Florida market faced with the threat that, should it ever find it necessary and prudent to withdraw from the homeowners' market, he/she would face the loss of the entire business. In addition, such a stand by the Department would be discriminatory to existing carriers that provide a wide range of insurance products to the public.

SOLVENCY

The Commission properly concludes that the Department of Insurance is responsible for regulating the solvency of

insurance companies operating in the State, and demands that the Department be charged with the obligation to monitor and the authority to demand corrective action where excessive geographic risk concentration exists. In the same breath, however, the Commission proposes that "no insurer should be allowed to cancel or non-renew in excess of 5% of its in-force ... policies"

Ladies and Gentlemen, the insurers are not getting rid of business just because they want to hurt Florida. They are doing so to correct the concentration of risks which now exists. To suggest that concentrations of risk be limited and not to allow the carriers to take immediate action to correct the situation are conflicting and unreconcilable positions. To limit the rate of curtailment to 5% is to stick our collective heads in the sand and hope that nothing happens while the problem goes away!

CATASTROPHIC LOSS RESERVES AND REINSURANCE COVERAGE

As I said before, I favor a catastrophe fund. However, I think the triggering mechanism must be carefully analyzed to make sure that this fund does not provide benefits only to the very large insurance companies while all of us little guys are paying for it. An event which does not trigger the fund under the proposed rules, may very well wipe-out some of us small operators. Consideration should be given to the plight of the small companies. I suggest a combination of a) rules limiting the geographic concentration of risks and, b) a mechanism which will enable the fund to come to the

assistance of a small company once a certain percentage of the company's capital and surplus has been lost due to a "catastrophe". The commission suggests a funding mechanism of 10% assessment to the insurers and 5% direct charge to the policyholder. Who is kidding who? The policyholder will ultimately have to pay the entire 15%. Therefore, let us call a spade a spade, and charge the entire 15% directly to the policyholder. If the 15% generates excess funds, then the consumer will see his costs reduced immediately.

RESIDUAL MARKETS

The Commission states that "The purpose of residual market mechanisms is to provide short-run or temporary solutions to extraordinary market circumstances." It also alludes to the fact that the residual markets should be a market of last resort. This means that if the private sector is willing to offer a product at a price, then the residual market should offer a similar product only at a higher price. Ladies and gentlemen, the free market system works. Let us not loose sight of the lessons taught by Andrew regarding the cost of catastrophe exposure when we set the rates offered by the residual markets.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

The Commission suggest that the legislature should initiate further study to adopt specific limits on RPCJUA assessments. This is critical. Nothing will do more to restrict the entrance of new companies to the market than the potential of live threatening assessments. The RPCJUA assessments should be based on a combination of writings and capital and surplus; otherwise, some of us small companies may be wiped-out by an assessment even though we were careful in the conduct of our business and in the level of risk we individually assumed.

DO YOU THINK THAT THE JOINT UNDERWRITING ASSOCIATION IS A SUFFICIENT REPLACEMENT IF INSURERS ARE ALLOWED TO CANCEL OR NON-RENEW POLICIES ONCE THE MORATORIUM IS LIFTED?

I believe the servicing carriers appointed by the RPCJUA have the ability to handle the additional insureds resulting from the expiration of the moratorium. The question remains, will the RPCJUA have the means to face an Andrew like catastrophe? The RPCJUA relies on its ability to assess the insurers if the need arises; the private sector has been weakened to the point where it may not be able to handle such assessments and survive.

WHAT DO YOU ANTICIPATE WILL HAPPEN AFTER THE MORATORIUM IS LIFTED ON NOVEMBER 15, 1993 IF NO ACTION IS TAKEN?

Absent any action by the legislature, I anticipate that once the moratorium expires, insurers will go ahead with their plans to reduce their exposure and concentrations of risks by either cancelling risks or refusing to renew expiring

policies. Such action will cause:

- 1) The RPCJUA to absorb a greater number of risks,
- 2) The activation of the Commercial JUA, and
- 3) The Wind Pool to increase its coverage area.

All of these mechanisms, however, have a common denominator and ultimate source of funds to meet the demands for a catastrophe -- ASSESSMENTS TO THE PRIVATE SECTOR INSURER. As I stated before, the question still remains, will the private sector be able to handle such assessment? The answer is "NO"

CONCLUSION

The small insurance company can not survive absent some relief from our government and our regulators. The relief must help the free market place, not replace it with a quasi-governmental operation in the residual markets. The creation of a catastrophic coverage fund is the key!

Ladies and Gentlemen, I thank you for the opportunity to address your committee.

**Executive Office**

October 29, 1993

Honorable Joseph P. Kennedy, II
U. S. House of Representatives
One Hundred Third Congress
Room 604, O'Neill House Office Building
Washington, D.C. 20315

RE: Subcommittee on Consumer Credit and Insurance Testimony
November 1, 1993 - Melbourne, Florida

Dear Congressman Kennedy:

Pursuant to your letter dated October 20, 1993, regarding the above mentioned, my testimony for the hearing is as follows:

The insurance industry in Florida has been greatly affected, and will never be the same since August 24, 1992, when Hurricane Andrew struck the Florida coast; specifically South Dade County. The massive destruction made by Andrew prompted all reinsurers to hit the "panic" button. Many large and small insurers who lacked sufficient catastrophe reinsurance became insolvent including subsidiaries of large Life or Mutual insurers. Several parent companies invested sufficient equity in their subsidiaries to avoid insolvencies but many did not and, subsequently, the insurance subsidiaries were liquidated.

Currently, the estimated loss from Hurricane Andrew is well over \$17 billion and has changed the way property insurance is written in Florida. Over thirty-five (35) insurance companies have withdrawn from the State or have plans to withdraw creating a tremendous insurance availability crisis especially in Homeowners and Commercial Habitational property.

The primary cause for lack of insurance is the severe price increases imposed by reinsurers on all renewal catastrophe covers subsequent to Andrew's destruction. It is true that the reinsurers had large losses but they also have not had large catastrophe losses in Florida for the past twenty (20) years.

560 N.W. 165th Street Road • Miami, Florida • (305) 945-9200 • Fax: (305) 956-3848

The argument was that the premiums collected in the twenty (20) years, including interest, was not sufficient to pay for Andrew's loss in addition to the other catastrophes which have occurred since 1990. After January 1, 1993, most carriers suspended writing new homeowners insurance as well as new commercial property after realizing that they were not able to place their catastrophe protection at an affordable price resulting in a massive non-renewal and cancellations of homeowners' policies unless renewals on these policies excluded wind or hail coverage.

In essence, insurers were willing to offer the customary homeowner's policy but excluding any damage due to wind or hail.

Florida domestic insurers experienced a surge in new business at the beginning of 1993 and, due to their size limitations, were unable to offer renewal quotes to all available customers nor pass through to its customers the large increases in catastrophe cost which were between 100% - 300%.

The Department of Insurance took several steps in order to avoid the massive pull out initiated by the large companies placing a moratorium on cancellations and non-renewals until November 15, 1993. This was a drastic measure but was the only way to avoid the proposed mass exodus indicated by most major property insurers. Furthermore, the Florida Residential Property and Casualty Joint Underwriters Association (FRPCJUA) was formed for the purpose of offering the public an alternative insurer. The potential for this new insurer to write \$1 - \$1.5 million homeowner's policies is quite realistic.

All losses incurred by this new insurer will be paid by all other insurers writing homeowners in the State of Florida. I believe that not only will it be unable to handle the enormous surge of new business but it is creating the largest concentration of homeowner property insurance with this one insurer than anywhere else in the country.

If the FRPCJUA continues to accumulate exposures in property at the proposed numbers without taking into consideration the fact that it lacks reinsurance protection and geographical distribution, which is the basis for insuring risks, the next hurricane to hit South Florida will bankrupt the insurer as well as all other companies left in Florida because they will be unable to pay for the huge assessments that would follow.

It is my belief that if the moratorium is lifted on November 15, 1993, the above mentioned scenario will occur.

Currently, insureds have some wind coverage available through the Florida Windstorm Pool which offers wind coverage at affordable prices. However, with large deductibles, not all risks qualify for this pool due to the geographical restrictions. In addition, the limits offered are insufficient. When agents attempt to put

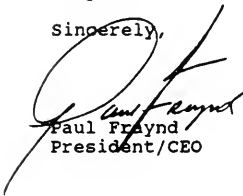
together a homeowner's policy for a house, they must get coverage from a homeowners insurer or the FRPCJUA, then add the wind with the Florida windstorm pool, then place an excess wind from Lloyds, and finally through the Federal Flood program purchase flood insurance. This process is expensive for both the agent and the consumers and, in many cases, impossible to complete.

Several other discussions regarding instituting a State Catastrophe Reinsurance program funded by a surcharge on the homeowners' premiums has been proposed but it would take many years for a fund of a sizable amount to be accumulated in order to pay for a hurricane such as Andrew, or even one of average strength.

The current insurance crisis initially began with Florida but it is rapidly expanding to other East coasts states. I believe that the solution to this problem would be to add the wind and hail perils to the existing Federal flood insurance program.

Currently insurers can sell flood policies and reinsure through the flood insurance program. Why not add wind and hail which would allow all insurance companies to calm their fears of imminent insolvency if another hurricane were to strike a major East coast city.

Sincerely,



Paul Freynd
President/CEO

PF/bjs

FLORIDA

CONSUMER ACTION NETWORK

W. CENTRAL FLORIDA
 4100 W. Kennedy Blvd #128
 Tampa, FL 33609
 (813) 286-1226
 FAX: (813) 286-1315

LEGISLATIVE OFFICE
 704 W. Madison Street
 Post Office Box 301
 Tallahassee, FL 32302
 (904) 222-4006

SOUTH FLORIDA
 150 N. Federal Hwy #220
 Ft. Lauderdale, FL 33301
 (305) 523-2950
 FAX: (305) 523-8610

TESTIMONY GIVEN TO U.S. HOUSE OF REPRESENTATIVES SUBCOMMITTEE ON CONSUMER CREDIT AND INSURANCE OF THE COMMITTEE ON BANKING, FINANCE, AND URBAN AFFAIRS

BY

JOHN A. MACHNIC
SOUTH FLORIDA PROGRAM DIRECTOR
FLORIDA CONSUMER ACTION NETWORK

Melbourne, Florida
November 1, 1993

Mr. Chairman and members of the subcommittee, I would like to thank you for holding these field hearings in Florida and inviting the Florida Consumer Action Network to testify at the hearings.

My name is John Machnic. I am the Program Director for the South Florida office of the Florida Consumer Action Network (FCAN). FCAN is a grass roots consumer organization with over 40,000 members throughout the state of Florida.

This morning, I am here to address an issue which affects not only our members, but all residents of the state of Florida, the "Homeowners Insurance Crisis". Indeed, I believe that this crisis will touch many residents of the United States who happen to live near rivers, oceans, are in tornado prone areas, or now in the path of fires. In essence, this crisis will probably touch a majority of Americans.

In Florida, we happened to be first and I believe we will be a laboratory for the rest of the country. We have an industry, that has for generations, signed a social contract with homeowners in the United States, to protect them from disaster. The "Good Hands People", the



"Rock" and a myriad of other catch phrases have been used to support this social contract. Now, when disaster strikes, this industry "cries wolf" and demands higher premiums and the ability to cancel policy holders without reason.

The cancellation threat by the industry affects one of our shared dreams, an American dream, that of home ownership. We all grew up with this dream, that one day, if we work hard enough and save enough, we will be able to purchase a home. Mr. Chairman and members of the committee, in Florida this dream is becoming a nightmare.

Florida's current Homeowners Insurance crisis has been linked by the insurance industry, to the devastation of Hurricane Andrew. The insurance industry would have us believe that because the devastation was so great and they underestimated the magnitude of this devastation, and their rates were set on this unrealistic estimation, that they will go out of business if they are not allowed to drop "risky" homeowners and raise rates on those homeowners lucky enough to be given insurance. Never mind that these same insurance companies have made poor investments decisions in office building projects. Never mind that these companies "cherry picked" the higher income beach communities, many times offering policies at low rates to be "competitive". Never mind that these same large insurance companies have given us and the Insurance Commissioner the risk models and the data needed to approve their proposed restructuring. Never mind that for the first three quarters of 1993, Allstate's profit exceeded \$1 billion. And finally, never mind that these same insurance companies contribute millions of dollars to political campaigns throughout the country. Just believe that they will all fail if they are not allowed to drop consumers and raise rates for those allowed to keep their insurance.

This "insurance crisis" has already had a tremendous psychological affect on current and potential homeowners throughout the state. When November 15, 1993 comes, an estimated one million in this state could receive a 45 day cancellation notice in the mail. Obviously, if a homeowners insurance is cancelled, that homeowner will be technically in default in their mortgage. Horror stories are already being told of individuals being forced to the Joint Underwriting Authority for their homeowners insurance and being required to pay significantly more for the coverage that was cancelled. One of our board members recently had

her homeowners insurance cancelled because, as she was told, she "used her policy too much". This person had three claims, and because of these claims, her policy was cancelled. Her new insurance with the JUA is \$ more than her old policy and covers much less.

Concerning the rate increases being granted by the Department of Insurance, we feel these rates are unwarranted and unjustified. Our Department of Insurance in the state has become little more than a "processing agency". Once a rate filing is completed by a company, the agency makes sure all the forms are filled in correctly, the "i's" dotted and the "t's" crossed, and then approval is given to the proposal. The Department trusts the information of the very firms it regulates. No, we do not feel 35% to 50% rate increases are warranted.

FCAN has proposed and we are lobbying for the creation of a separate Independent Consumer Advocate to represent consumers before the Commissioner of Insurance and the Department. Only with a separate Consumer Advocate with the ability to develop independent data can we trust the information presented in the rate filings.

Finally, I would like to comment about our up coming "Special Session". Firstly, we support much of the findings published in the report of the Study Commission on Property Insurance and Reinsurance. We feel this document should be used as a foundation for solving our current crisis. However, there is one area we do not agree. We are against a state Catastrophic Loss Pool. This concept being pushed by the Insurance Industry "smells" to much like another "bail-out" . And we all know what is happening in the S&L Bail-out. The creation of a catastrophic loss pool should only be attempted at the National level.

We will be working very hard at the special session to pass our legislation and we expect legislation to pass that will protect consumers. However, if nothing is passed by November 15, which we expect not to be the case, many homeowners throughout the state will have to either go to the JUA for coverage or the surplus line market. In Florida, this surplus line market is not as well regulated and is much more risky than standard insurance. If nothing occurs, people will pay more and generally get less.

Let me close by saying that, yes we do have a serious crisis in Florida. It is a crisis caused by mismanagement and poor business decisions. Hurricane Andrew was not the cause but it has become a useful

tool for an industry to argue for yet higher profits. Mr. Chairman and members of the committee, we need to seriously investigate the operation of the insurance industry, because right now the "good neighbor" is not being very neighborly.

Thank you.

MISCELLANEOUS CORRESPONDENCE

SUBMITTED BY

HON. JIM BACCHUS

Statement for the Record
The Honorable E. Clay Shaw, Jr.
Regarding Property and Casualty Insurance Issues

House Banking Subcommittee on Consumer Credit and Insurance
Field Hearing in Melbourne, Florida
November 1, 1993

I appreciate the opportunity to convey my thoughts about this subject before the Consumer Credit and Insurance Subcommittee. Earlier this year I testified before the Subcommittee, and I want to amplify those thoughts.

While I am encouraged by actions recently taken in the Florida legislature to assist homeowners and businesses in my state, I continue to believe that the tremendous potential losses involved are too large for a single state to manage. This year, Florida has been lucky and avoided a major hurricane. During August, however, coastal communities from Florida to Long Island were reminded of the threat posed by hurricanes. Thankfully, Hurricane Emily skirted the North Carolina coast, and caused only limited damage before turning back out to sea.

A year ago, however, Hurricane Andrew caused more than \$18 billion in damage, wiping out some insurers in Florida. And Andrew is not even a worst case scenario. For example, experts foresee storms causing double or triple the damages from Andrew:

Category 4 storm striking New York.....	\$45 billion
Category 4 storm striking New Jersey.....	\$52 billion
Category 5 storm striking New Orleans.....	\$26 billion
Category 5 storm striking Galveston.....	\$42 billion
Category 5 storm striking Miami.....	\$53 billion

No insurer or single state fund could withstand such storms. That is why I have introduced H.R. 1302, the Hurricane Hazard Reduction Act. This bill has a number of goals: promoting better construction to limit future damage; making sure that funds are set aside in trust funds to cover catastrophic hurricanes; and providing up to \$50 billion in added borrowing authority from the federal government to cover losses exhausting the trust funds. My proposal makes sure that any amounts borrowed from the Treasury are repaid through future premiums. It is designed to keep private insurers in the business of offering windstorm coverage, and to limit damages caused by future hurricanes.

This is a complex issue, but I am convinced that a federal role is essential. If we fail to act, the federal government probably will have to step in anyway after future catastrophic hurricanes, and at even greater cost to taxpayers. For example, after Hurricanes Andrew, Iniki and Typhoon Omar struck in 1992, \$11 billion in federal relief was simply added to the deficit.

I am also a supporter of H.R. 2873, legislation introduced by Congressman Mineta that would provide federal support for states threatened by hurricanes and other natural disasters. This legislation has the strong backing of Florida's Governor Lawton Chiles and Insurance Commissioner Tom Gallagher. The goals of this bill, as well as many of the details, are quite similar to those in H.R. 1302, the legislation I have introduced. H.R. 2873 offers broader coverage to include natural disasters such as earthquakes and volcanoes, in addition to catastrophic windstorms.

This issue is vitally important to my home state of Florida, and I applaud the subcommittee's work to see a reasonable federal solution achieved. While the majority of support for such legislation may come from representatives of coastal communities and others most directly threatened by natural disasters such as hurricanes, earthquakes and volcanoes, I believe passage of comprehensive legislation will benefit all Americans. Keeping insurance available and affordable, as well as encouraging better construction and damage mitigation, will forestall the need for future enormous federal emergency spending, such as occurred after Hurricanes Andrew and Iniki and Typhoon Omar. That is a loss for all, and one that could be mitigated by effective federal action in advance of future natural disasters.



LAWTON CHILES
GOVERNOR

STATE OF FLORIDA

Office of the Governor

THE CAPITOL
TALLAHASSEE, FLORIDA 32399-0001

November 24, 1993

Honorable Jim Bacchus
432 Cannon House Office Building
Washington, D.C. 20515-0915

Dear Congressman Bacchus:

Thank you for the invitation to address the Consumer Credit and Insurance Subcommittee of the House Banking Committee in Melbourne.

I am sorry that I was not able to attend; however, as you mentioned in your letter, November 1, 1993, was the first day of the special session. I am pleased with the results from the special session, and I thought that you might like to know what was accomplished in the area of property insurance.

On November 10, 1993, I signed into law measures to protect property owners by preventing the cancellation of more than 700,000 insurance policies within the state. These bills require a 90-day notice of non-renewal, authorize premium discounts for homes in communities that strictly enforce building codes, and provide tools to assist the Department of Insurance in regulating the solvency of insurers. Also, I signed into law the Florida Hurricane Catastrophe Fund, which supplies the protection that will permit insurers to continue with providing coverage to the citizens of this state.

During the special session, many members of the Florida Legislature expressed their support of a federally-funded Catastrophe Fund. If you would like additional information on the newly created Catastrophe Fund, please feel free to contact my office.


Again, thank you for the invitation. If I may be of assistance to you in the future, please do not hesitate to let me know.

With kind regards, I am

Sincerely,

LAWTON CHILES

LC/mlk

 Charlotte E. Goss
820 Barnes Boulevard
Rockledge, FL. 32955
(407) 631-4426

April 26, 1993

Foremost Insurance Company
P. O. Box 2450
Grand Rapids, MI 49501-2450

Re: Notice of Non-Renewal
Policy #103-603374982-0-92

Dear Sir/Madam:

To say we are bitterly disappointed over the action of what has - until now - been considered one of the 'foremost' insurers of mobile homes is the understatement of the year. Your company's statement that this "decision was not taken without careful consideration and deliberation" does not ring true. If certain areas of any state present on-going problems for any insurance company, that should be considered when setting premium rates. If your officers did not know that a catastrophe such as Hurricane Andrew was a possibility in Florida, they did not deserve to be officers. Hurricanes, tornadoes, floods, etc. are acts of God and the people you insure should not be held accountable. Neither should Foremost, you say? Ah, but that is the business you are in and need to take previous history into consideration in order to set rates instead of cancelling unsuspecting clients.

It seems to us, that just because YOU didn't plan accordingly, WE are being punished, and we feel cheated and angry. We are convinced that had we been living in a 'regularly built' rather than a mobile home we would not suddenly find ourselves in what you so politely call "an excessive number of customers" in our area. We are also convinced that if you consider what you are doing to be legal, it is certainly far from moral or ethical behavior and we intend to report this action to the Insurance Commissioner.

I hope the Commissioner is sufficiently enraged by the recent actions of companies such as yours that he will coordinate a thorough investigation if he has not already done so. Consequently a copy of this letter is going to him with what I hope will result in a completely different attitude on the part of Foremost Insurance Co.

Sincerely,



ROBERT W. ROBERTS
3105 Las Palmas Drive
Titusville, Florida 32780

Congressman Jim Bacchus May 17, 1993
U.S. House of Representatives
432 Cannon House Bldg.
Washington D.C. 20515

Dear Congressman Bacchus;

Another "S & L" type Rip-off ?

Why are the insurance companies "crying" that they have problems in covering the obligations for which they have been paid by many years of very profitable incomes due to very low claims ? Is this another horrible example of insufficient control ?

The insurance companies own most of the invested capital and real estate of this country. Why ? Because of the many, many years of excessive operational profits ! Now, suddenly one year of low annual profit and they call "wolf"! They have even pressured the State AND Federal politicians to pick up their losses via taxes by legislation ! They have already pressured the Florida State Legislature to establish a "catastrophe Fund" to ease insurance companies responsibilities. (bills in progress)

These same insurance companies are continuing to seek remedies for the possibility of future catastrophic claims by attacking the insurance market (policy holders) with demands for excessive rate increases AND plans to reduce their policy holder base in selective "high exposure" areas.

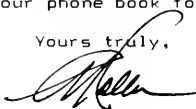
The Florida State Insurance Department and Commissioner Tom Gallagher must be fair and honest to Florida citizens and stand firm in forcing the insurance companies to meet their responsibilities ! If the insurance companies wish to back-out of their obligations to their policy holders, the State Insurance Department must force the insurance companies to fulfill their contracts or face litigation proceedings and Class Action suits for the many years of high profit and low-payout conditions.

The Department of Insurance commissioner and State Treasurer Tom Gallagher intends to hold hearings on the "proposals" by the insurance companies. Are these "hearings" to be held in Miami or Orlando ? NO ! They are scheduled for Clearwater Beach and Plantation, May 17th and 18th, Monday and Tuesday at 9 A.M. (must be a vacation trip) Why not in large cities, especially areas that will be "short changed" by these insurance company "RIP-OFF" artists ! Why not on Saturdays or evenings, when the working citizens can get to them ?

The telephone number for the Florida Insurance Department's "Help line" is 1-800-342-2762 (free call). Call and let Tom Gallagher know that you won't take this insurance "rip-off" with out some political reaction !

This "letter-to-the editor" probably won't be published by the newspapers it is being sent; but if it is, cut it out and send copies to your State and Federal Senators and Representatives. (see the front section of your phone book for addresses)

Yours truly,





WAYNE W. EDEN INSURANCE AGENCY, INC.

MAY 28, 1993

WILLIAM YANCY

PALM BAY, FLORIDA 32905-3782

RE: HOMEOWNERS INSURANCE
 MERRIMACK MUTUAL FIRE INS. CO.
 POLICY # HP 1339795
 EXPIRATION: 8/23/93

DEAR MR YANCY, MS RADD.

YOU WILL SOON RECEIVE A NON RENEWAL NOTICE FROM
 MERRIMACK MUTUAL. THIS COMPANY WILL NO LONGER INSURE
 PROPERTIES LOCATED ON THE COAST OF FLORIDA DUE TO THE
 LOSSES SUSTAINED FROM HURRICANE ANDREW.

IF YOU WISH OUR AGENCY TO REPLACE YOUR HOMEOWNERS POLICY
 PLEASE STOP BY OUR OFFICE TO COMPLETE A NEW APPLICATION.
 PLEASE SUPPLY US WITH A PHOTOGRAPH OF YOUR HOME.

WE APPRECIATE YOUR CONTINUED BUSINESS AND HOPE YOU WILL
 CALL ON US SHOULD YOU HAVE ANY QUESTIONS.

YOURS TRULY,

GARY A. EDEN

WAYNE W. EDEN INSURANCE AGENCY, INC.

CC



3240 Dixie Highway N.E. • Palm Bay, FL • (407) 723-4263 • FAX (407) 723-2826
 P.O. Box 000519 • Palm Bay, FL 32900-0519

Sterling Insurance Agency, Inc.

200 South Harbor City Boulevard • Suite 301 • Melbourne, Florida 32901-1399
407-724-5825 • FAX 407-725-0831

JUNE 9, 1993

THE HON. JIM BACCHUS
900 DIXON BLVD
COCOA, FL 32922

DEAR JIM:

I'M GLAD TO SEE YOU ARE LOOKING INTO THE INSURANCE PICTURE HERE IN FLORIDA.

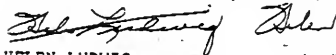
THE INSURANCE INDUSTRY AS A WHOLE HAS BEEN GREEDY - NOT BASING THEIR PREMIUMS ON SOUND ACTUARIAL RATES BUT TO GET THE CASH FLOW FOR INVESTMENTS. THAT PLUS LOW REINSURANCE COSTS GAVE THEM A CONFIDENT FEELING.

NOW AFTER "ANDREW" THE REINSURANCE MARKET HAS DRAMATICALLY INCREASED THE COSTS. ONE OF OUR COMPANIES STATED THAT FOR EVERY DOLLAR OF PREMIUM RECEIVED IT WAS COSTING 55 CENTS FOR THE REINSURANCE. THAT LEFT VERY LITTLE TO PAY OPERATING EXPENSES, AGENTS COMMISSIONS AND TURN A PROFIT FOR THEIR STOCKHOLDERS.

IN TALKING WITH MANY PEOPLE IN OUR INDUSTRY WE BELIEVE THE FEDERAL GOVERNMENT SHOULD SET UP A CATASTROPHE INSURANCE PROGRAM SIMILIAR TO THE NATIONAL FLOOD INSURANCE PROGRAM TO HANDLE HURRICANES, TORNADOS AND EARTHQUAKES.

FLORIDA IS NOT THE ONLY STATE TO SUFFER FROM THE HEAVY HAND OF MOTHER NATURE.

SINCERELY,



HELEN LUDWIG
AGENT



USAA PROPERTY AND CASUALTY INSURANCE COMPANY

Send back
Y. Smith
 ALEX A LEVINE
 MAJ USAR RET
 235 HUNT DRIVE
 MERRITT ISLAND FL 32953-4619

June 11, 1993

Dear Major Levine:

It has been almost ten months since Hurricane Andrew wreaked havoc in South Florida. Unfortunately, the effects of this monstrous storm are still being felt. Due to a lack of building materials, qualified contractors, building inspectors, and other factors, many USAA members are still awaiting a return to normality. Through it all, we are continuing to provide our members with the very best claims service in the insurance industry.

Until Hurricane Andrew made landfall, our largest estimated loss from a storm of this magnitude had been \$212 million. However, we now know that the potential for loss is far greater than anyone ever anticipated. USAA members suffered some \$609 million in damage in Florida as a result of Hurricane Andrew, and the damage could have been far worse had the storm entered the coastline at other locations.

Prior to the moratorium issued by the Department of Insurance and subsequent legislative action, some insurance companies had announced their intention to reduce their loss exposure in Florida by non-renewing the policies of thousands of customers. Others are no longer accepting any new customers or have gone out of business completely.

This letter will bring you up to date on the actions we are planning in Florida to adjust to the risks that we see in the post-Andrew environment. While we have not considered canceling or non-renewing policies as a result of Hurricane Andrew, it has become apparent to us that our rates in Florida are not adequate to pay for the catastrophic losses that are likely to occur in the state.

Dividends lost for the year

Consequently, we are asking the Florida Department of Insurance for an average rate increase of 30 percent for Florida Homeowners policyholders and 20 percent for Condominium policyholders. The actual increases will vary by location. However, higher deductibles can help offset part of this increase. Those policies written on properties in higher risk areas will be required to carry the higher deductibles.

USAA Building San Antonio, Texas 78288

(OVER)

000047010-DM11773-010010738

If approved, the new rates would become effective beginning October 1, 1993, and would be reflected on policy renewals after that date.

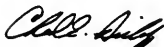
In addition to the rate increase, we are filing with the Department of Insurance a revised Home Replacement Plus (HRP) endorsement. This revised endorsement encourages adequate insurance coverage by placing a reasonable cap on dwelling coverage, which was previously unlimited. Also, we are filing a simplified Building Ordinance or Law endorsement, which offers broader coverage than our current endorsement.

We are not making these changes to recoup the losses created by Hurricane Andrew. Rather, we are acting because we now recognize the damage that a large hurricane can cause. Even this rate increase fails to fully reflect our projected increase in catastrophe claims in Florida, but we have capped it to alleviate some of the hardship on our members. While we regret having to implement a large rate increase, we believe this action is necessary in order to maintain the financial strength you have come to expect from USAA.

If this filing is approved by the Department of Insurance, you will be advised of your specific changes with your renewal policy approximately 60 days prior to your policy renewal date.

Thank you for your understanding during what have been unusually difficult times.

Sincerely,



Charles E. Bishop
Brigadier General, USAF (Ret.)
President
Property and Casualty Insurance

Allstate

Helen Greenbaum
 375 Holiday PK Blvd.
 Palm Bay, FL 32907
 952-4348

June 18, 1993

Dear Customer:

I know you must be concerned about your property coverage, so I want to reassure you that you need not worry about your policy being discontinued because of hurricane risk this season.

We regret that Allstate hasn't seemed like the caring partner we were in the weeks following Hurricane Andrew. But the situation we found ourselves in called for decisive action if we were to continue to be in a position to protect the vast majority of our Florida customers in the event of future storms.

As you may know, the State of Florida has issued a moratorium on the non renewal of property policies due to hurricane risk. Allstate supports the moratorium as a means to find a solution to the insurance crisis in Florida.

We are hopeful that our work with public officials, consumer groups, businesses and customers will ensure that everyone in Florida has access to protection against personal tragedies like Andrew. This is evidenced by our meetings with the governor, the insurance commissioner and our complete support of the moratorium while the issue is studied.

Florida has been a home for Allstate for more than 50 years. We insure some two million Floridians. I hope that in the months ahead we can renew your confidence in us. Despite the recent headlines, we have always tried to put customers first.

We are committed to working with the state and national government to find the best solution for the problem of catastrophic losses.

Sincerely,

G. F. McDermott
 Regional Vice President
 Allstate Insurance Company

5065 Winchester Dr.
Titusville, FL 32780
July 2, 1993

U.S. Representative Jim Bacchus
854 Dixon Blvd.
Cocoa, FL 32922

Dear Representative Bacchus:

I have just received your invitation to the Insurance Crisis Meetings. I will not be able to attend any of those meetings, but I do have some input.

I have received a letter from my insurance company, USAA, in San Antonio, Texas. They informed me that they had requested from the state of Florida, a Thirty Percent (30%) increase in homeowner insurance. Naturally I was upset and outraged, because I have no other insurance company to turn to, because they are all doing it. I am upset, because for over 13 years I have paid my insurance premiums and have not filed one claim. I did not file any claim when Andrew went through South Florida and yet my insurance company wants me to pay for their loss and any future loss by increasing my policy 30-percent.

It has been known for years that insurance companies have been making Millions and Billions of dollars, I never heard them say "Gee, we made so much profit this year, we are going to give the homeowner policy holders a 30-percent reduction", no instead they just pocket the money or build another big building. This increase should not be allowed. But I know, what will happen is my insurance company will just quit doing business in Florida, then what do I do?

Sincerely Yours,


Ralph Thompson

July 3, 1993

Congressman Bacchus
15 Congressional District
Florida

In regards to your insurance crisis meetings I will be unable to attend any of them but I do want to relate to you what recently happened to me.

My State Farm agent contacted me and asked if I would voluntarily take a \$500. deductible on my home owners insurance. I asked him to give me a few days to think it over and his response was "I have to have it in a hurry."

A few days later I called his office and advised them I would not agree to their proposal. The lady I talked with said "I guess you know what we cancel or refuse to renew your policy."

I have carried my policy with State Farm for nineteen years here in Florida. My total Claims during that period was \$1439.35. The largest being \$639. which was for hail damage to my patio roof. I am 77 years old and my source of income is a small pension and social security.

Respectfully,

Ralph E. Mitchell

Ralph Mitchell
1635 Jamaica St.
Titusville, Fl. 32780

99 Derby Way
Vero Beach FL 32966
July 6, 1993

Repr. Jan Seckus
807 Dixon Blvd
Coron FL 32922

Dear Sir:

We are unable to attend your scheduled Vero Beach fact finding meeting due to prior commitments. Nevertheless we appreciate your concern and wish to share the enclosed. We own a mobile (manufactured) home in Heron Way, a retirement community. We obtained insurance through a local independent agent. That agent has sent us the enclosed notifications relative to the status of our insurance which will be due for renewal in October. Obviously, we are concerned about renewal and about costs. We have contacted AARP homeowners insurance; they indicated that they are writing no more policies for this area. Our current premium is \$384 through MHA of Pinellas Park, and Acker Hall locally. Any action on your part to remedy this situation will be welcome.

Yours truly,
Gwendolyn J. Rupp
(Mrs Richard C. Rupp)



ACKER - HALL INSURANCE AGENCY

04/13/93

Mr. & Mrs. Richard Ripp
99 Darby Cay
Vero Beach, FL 32966

3175 - 20 STREET
VERO BEACH, FLORIDA 32960
PHONES: (407) 569-2626
(407) 466-8222
FAX: (407) 569-2661

Dear Mr. & Mrs. Ripp,

The changes from insurance companies after the claims from Hurricane Andrew and the other storms in Florida have been dramatic. Unfortunately the mobile home insurance market is the worse we have experienced in the 17 years our agency has been in Vero Beach.

This letter is to inform you of what is happening and the options available. If you get a renewal premium notice, we suggest paying it even with the increases in cost from last year. Many companies have gone out of business, non-renewing existing customers and others not taking any new customers for mobile home insurance. Your renewals will often be at a \$250 deductible, NO FLOOD COVERAGE WILL BE COVERED BY RENEWALS, and other restrictions may apply. The new FLORIDA JUA policies offer coverage, but prices start at \$500+ and flood coverage is not included.

Should you want a flood quote through the Federal Flood program which is available, please get the exact flood zone from the building and planning department or the park owner may know. This policy starts at \$75 / year.

We are looking for alternative markets, but presently none seem available other than the higher priced JUA. Hopefully this weather cycle will calm down and the insurance marketplace and settle down to more predictable and less severe claims.

Sincerely,
Ken Acker

Cheryl Acker

Grace Johnson

Richard Holmes



May 17, 1993

Mr. & Mrs. Richard Ripp
99 Darby Cay
Vero Beach, FL 32966

MH0F193474
date: 10/10/93
expires

Dear Mr. & Mrs. Ripp:

We have just been notified that we presently do not have any company writing new mobile home insurance for homeowners. The market we had arranged to rewrite the mobile home insurance from Independent Fire, just informed us they are unable to write any additional business. Renewal offers from our other markets are being sent out at times just before renewal date. Renewals are at higher premiums, yet we strongly suggest paying promptly as alternatives are not available and once gone could not be restarted.

The State of Florida has created an insurance plan to use for people who are unable to find markets for their mobile home insurance. The premiums are often in the \$500+ price range, though there is an indication that the rates filed are too high and may be lowered over the coming months.

Please check back with us before the renewal date and we will try to get a quote for you.

We thank you for your business and hope no further negative results will come from the extreme damages seen from Hurricane Andrew and the high claims costs still being paid.

Sincerely,

Cheryl Acker
Grace Johnson
Ken Acker
Richard Holmes

ACKER - HALL INSURANCE AGENCY
2175-20TH. STREET
VERO BEACH, FL 32960
(407) 569 - 2626



KWIK-KOPY PRINTING OF PALM BAY

2595 Palm Bay Road NE • Palm Bay, FL 32905 • (407) 676-7005 • FAX (407) 676-7006

①

7/8/93

Dear Jim

I'm sorry I cannot attend your meeting this evening
 because the topic is of interest to me.

Below are the premium changes that have occurred on
 our business policies from 1992-93 - with no changes
 in coverage.

	1992	1993
A) BUSINESS INSURANCE		
\$1000.00 / DEDUCTIBLE	\$2159.00	\$3038.04
		+10%
B) WORKER'S COMP. RATES:		
1) PRINTING OPERATIONS	\$4.21/100	\$6.18/100
		+47%
2) CLERICAL	.59/100	.72/100
		+22%
3) TOTAL PREMIUM	\$1033.00	\$1396.00
for 3 covered employees		for 3 covered employees
		+25% for 1 less employee

The increases were explained to us as follows:

- 1.) BUSINESS INSURANCE - STATE MINIMUM PREMIUM FOR
 RE-INSURANCE POOL
- 2.) WORKER'S COMP - STATE MINIMUM PREMIUM INCREASE.


KWIK-KOPY PRINTING OF PALM BAY

2595 Palm Bay Road NE • Palm Bay, FL 32905 • (407) 676-7005 • FAX (407) 676-7006

(2)

ADDITIONALLY, PART OF ALL BUSINESS INSURANCE IS THE
 COVER FOR OUR BUILDINGS. WE HAVE BEEN INFORMED THAT
 THE POLICY HAS BEEN CHANGED FROM "REPLACEMENT COST" TO
 125% OF INSURED VALUE. NORMALLY THAT WOULD NOT
 BE A PROBLEM AS I MAKE SURE WE HAVE ADEQUATE
 COVERAGE FOR RE-BUILDING. HOWEVER, IT COULD BE A
 BIG PROBLEM IN THE EVENT OF A MAJOR DISASTER
 CAUSING INCREASES IN CONSTRUCTION COSTS (DUE TO LACK
 OF MATERIALS + LABOR).

FINALLY, I FIND IT HARD TO BELIEVE THAT THE
 "STATE MANDATE" PREMIUM INCREASES ARE NOT THE RESULT
 OF INSURANCE COMPANY REQUESTS.

THANKS FOR YOUR TIME. AS YOU CAN SEE, IT'S A PRETTY
 BIG NOT FOR A SMALL BUSINESS TO ABSORB INCREASED
 INSURANCE COSTS OF ABOUT 17% - + THAT IS WITH
 LESS EMPLOYEES!!

Stan H

7/9/93

Congressman J. Bacchus.

First I would like to thank you for being interested in our insurance crisis here in Fla.

I was unable to attend any of your meetings here in Central Fla but I would like to tell you of mine and many others here in our modular home park on Merritt Isl.

My insurance is with Omega located in Gainesville and the premium went from \$330 to \$509 with a 250 Deductible and they dropped the flood insurance. That's a big increase.

I don't believe that they had suffered and large loss during Andrew, I just feel that they are taking advantage of the situation to increase their profit margin at the cost of the insured. Again thank you for your interest and hope something can be done.

Yours
 Mr N. Scokora
 4312 Sea Gull Dr
 Merritt Isl Fla
 32853

1404 Rose Ct
 Melbourne FL
 32935
 7/13/93

Congressman Jim Ahearn

Dear Sir

Re insurance homeowners:

I previously had principal
 residence insured by
 Merrimack Mutual Fire Ins., Andover Mass
 01810

total premium (12 months) of \$363 -

from June to June

Policy not renewed - new insurer =
 { the travelers -
 { (Phoenix Ins. Co

same coverage -
 cost of \$522 -

with \$250 - deductible.

Respectfully
 Joseph Berman
 Denise Berman

PAUL & ELAINE TAGGART
1375 IVY COURT #202
VERO BEACH, FL 32963

July 1st 1993

Congressman Jim Buchanan

Re: Cancelled Policy

Enclosed are documents showing
Cancellation of our policy and an
offer to receive a new policy
at double the price. I was
fortunate enough to have other
policies with State Farm so they
covered me for \$494.00. However
Glenged wanted to insure us at
1470.00. Hope this helps you.

Elaine Taggart



ROLLINS HUDIG HALL

Rollins Hudig Hall of Florida, Inc.
2650 North Military Trail, Suite 300
Boca Raton, Florida 33431-6339
Telephone 407/241-4440 Toll Free 800/848-4174
Fax 407/241-4720

March 29, 1993

Paul D. and Shirley E. Taggart
1375 Ivy Court, #202
Vero Beach, FL 32963

Re: Homeowner Insurance
Policy #DHW 8518351

Dear Mr. and Mrs. Taggart:


As you are aware, your current Homeowner Insurance policy will expire on 4/17/93 and not renew as this agency no longer represents West American.

Enclosed is a rate quotation for coverage through The Travelers Insurance Company. Unfortunately, you will note the [REDACTED] is substantially higher than your current premium.

\$1,058.00

Please review this proposal and advise us should you wish to pursue.

Very truly yours,
ROLLINS HUDIG HALL OF FLORIDA, INC.


Deborah A. Vincett
Personal Risk Representative

enc.
/dv

An **AON** Company

COVERAGES	LIMITS	PREMIUMS
A-DWELLING	\$ 140.000	932
B-OTHER STRUCTURES	14.000	INCLUDED IN A
C-PERSONAL PROPERTY	98.000	INCLUDED IN Y
D-LOSS OF USE	28.000	INCLUDED IN A
E-PERSONAL LIABILITY	300.000	7
F-MEDICAL PAYMENTS	2.000	INCLUDED IN E
Y-PERSONAL PROPERTY REPLACEMENT		93
T-PERSONAL INJURY	*	2
H-REPLACEMENT COST PROTECTION		4
J-ADDITIONAL PROTECTION	**	20

TOTAL ANNUAL PREMIUM

PROTECTIVE DEVICE CREDIT APPLIED

5%

NUMBER OF INSTALLMENTS AVAILABLE IN TERM	PERCENT BILLED ON FIRST BILL	AMOUNT	AMOUNT OF REMAINING INSTALLMENTS*
12	25%	\$ 264.50	\$ 72.14
11	31.82%	\$ 336.66	\$ 72.13
10	38.64%	\$ 408.81	\$ 72.13
9	45.45%	\$ 480.86	\$ 72.14

*THE NUMBER AND AMOUNT OF REMAINING INSTALLMENTS WILL DEPEND ON THE TOTAL POLICY PREMIUM.

FOR EACH INSTALLMENT A \$3.00 ACCOUNT SERVICE CHARGE WILL BE ADDED.

COMPANY:	INDEMNITY	PROTECTION CLASS:	5
FRICING:	STANDARD	YEAR BUILT:	1984
FORM:	633	CONSTRUCTION:	FRAME
ZONE:	13	DEDUCTIBLES:	500/500/500

- * THE LIMIT OF INSURANCE PROVIDED UNDER PERSONAL LIABILITY AND MEDICAL PAYMENTS APPLIES TO THIS COVERAGE
- * COVERAGE J, ADDITIONAL PROTECTION, INCREASES VARIOUS PROPERTY AND LIABILITY COVERAGE LIMITS.

RATES EFFECTIVE: 03/16/93



Glendale Federal Bank
Real Estate Loan Service Center

06/16/1993

PAUL D TAGGART JR
SHIRLEY ELAINE TAGGART
1375 IVY CT #202
VERO BEACH, FL 32963

RE: Loan No. 6860995
Property Address 1375 IVY CT
VERO BEACH, FL 32963

Dear Customer:

Your mortgaged property is as important to us as it is to you. This is why we are contacting you about your insurance. Since we have not received a renewal policy or notice from your Insurance Company, it will be necessary for us to order insurance coverage on your property. This coverage may differ from that provided by your previous insurance company. It may not cover the full replacement cost of the dwelling and it does not protect your personal property.

Please take a moment to contact your insurance agent or company, asking them to provide us with information regarding your insurance coverage. If we do not receive proof of coverage immediately, a full one year policy will be issued.

The annual premium will be paid by Glendale Federal Bank and charged to your monthly mortgage payment. Since this coverage may be of a higher rate, we urge you to initiate arrangements for coverage from your agent, which may be less costly if your agent can provide you with a preferred risk policy.

California customers who need to contact an insurance agent are invited to call Glenfed Insurance Service at 1-800-232-5480. All insurance documents must include the mortgage clause and loan number, and be mailed to us, as follows:

Glendale Federal Bank, F.S.B.
Its Successors and or Assigns
P.O. Box 85478
San Diego, CA 92186-5478

Please understand that any coverage we obtain to protect our interest will be cancelled when Glendale Federal Bank is in receipt of your insurance policy, or comparable evidence of insurance, showing no lapse period. You will only be charged for insurance required during a lapse in your voluntary coverage.

Thank you for your cooperation on this matter. If you have questions, please call our Customer Service Department at 1-800-669-1212.

Sincerely,

Insurance Department

P O Box 85478/San Diego, California 92138-5478

MS0389



February 24, 1993

Paul D Taggart Jr
Shirley Elaine Taggart
1375 Ivy Ct #202
Vero Beach, FL 32963-

Property Address: 1375 Ivy Ct
Vero Beach FL 32963

RE: GFB Loan Number 686099-5

Policy Number: DHW8518351

Company: West American

Date of Cancellation: 4/17/93

Your insurance coverage has expired or is being cancelled as of the date shown above. The terms of your loan agreement require you to maintain insurance coverage at all times.

We need to receive proof of coverage prior to the policy cancellation date or immediately if the cancellation date has passed. Please have your agent provide a policy and premium notice to:

Glendale Federal Bank, Its Successors and/or Assigns
PO Box 85478
San Diego CA 92186-5478

Be sure your loan number is included with your policy information.

() If this box is checked, we have already disbursed your premium prior to receiving a cancellation notice. If you are in the process of changing insurance companies, we will not have adequate escrow funds to pay for your new policy. You must pay for the new policy, provide a copy of both the policy and paid receipt, and follow-up with your agent/carrier for the refund of the old policy.

If we do not receive proof of coverage we will be forced to place our limited protection policy to protect our interest, and charge your loan accordingly.

For California customers who need to acquire an insurance policy, may we suggest that you contact Glenfed Insurance Services to arrange for coverage at 800-232-5480.

Thank you for your prompt attention in this matter. If you have any questions, please call our Customer Service Department at 1-800-669-1212.

Sincerely,

Danielle Mason

Insurance Department

IN148-013

P.O. BOX 85478 SAN DIEGO, CALIFORNIA 92186-5478 (1-800-669-1212)

REFLACES NO.
59-C5-8040-6

STATE FARM FIRE AND CASUALTY COMPANY
7401 CYPRESS GDNS BL. WINTER HAVEN FL 33888-0007
A STOCK COMPANY WITH HOME OFFICES IN BLOOMINGTON, ILLINOIS

NAMED INSURED

2058-29 D

TAGGART, PAUL D JR & SHIRLEY E
1375 IVY COURT #202
VERO BCH FL 32963-4073

LOAN # 6860995
MORTGAGEE

GLENDAL FEDERAL BANK, F.S.B.
ITS SUCCESSORS AND/OR ASSIGNS
P O BOX 85478
SAN DIEGO CA 92186-5478

HOMEOWNERS POLICY - SPECIAL FORM 3

AUTOMATIC RENEWAL If the POLICY PERIOD is shown as 12 months, this policy will be renewed automatically subject to the premiums, rules and forms in effect for each succeeding policy period. If this policy is terminated, we will give you and the Mortgagee/Lienholder written notice in compliance with the policy provisions or as required by law.

POLICY PERIOD: 12 MONTHS
EFFECTIVE DATE: 04/17/93
EXPIRATION DATE: 04/17/94

THE POLICY PERIOD BEGINS AND ENDS AT 12:01 AM
STANDARD TIME AT THE RESIDENCE PREMISES

LOCATION OF RESIDENCE PREMISES
SAME AS INSURED'S ADDRESS

*Policy I got thru
State Farm.*

ZONE: 84 CONSTRUCTION: FRAME
FIRE PROTECTION CLASS: 5

COVERAGES & PROPERTY

SECTION I

A DWELLING	\$ 120,000
DWELLING EXTENSION	\$ 12,000
B PERSONAL PROPERTY	\$ 84,000
C LOSS OF USE	ACTUAL LOSS SUSTAINED

SECTION II

L PERSONAL LIABILITY (EACH OCCURRENCE)	\$ 300,000
DAMAGE TO PROPERTY OF OTHERS	\$ 500
M MEDICAL PAYMENTS TO OTHERS (EACH PERSON)	\$ 1,000

FORMS, OPTIONS, & ENDORSEMENTS
SPECIAL FORM 3
JEWELRY AND FURS \$2,500 EACH
ARTICLE/\$5,000 AGGREGATE
REPLACEMENT COST - CONTENTS
AMENDATORY ENDORSEMENT

FP-7923
OPTION JF
OPTION RC
FE-7210.4

INFLATION COVERAGE INDEX: 129.7

DEDUCTIBLES - SECTION I
ALL LOSSES \$ 500

IN CASE OF LOSS UNDER THIS
POLICY, THE DEDUCTIBLES WILL BE
APPLIED PER OCCURRENCE AND WILL
BE DEDUCTED FROM THE AMOUNT OF
THE LOSS. OTHER DEDUCTIBLES MAY
APPLY - REFER TO POLICY.

POLICY PREMIUM \$

DISCOUNTS APPLIED:
HOME ALERT
RENEWAL 6+ YEARS

FOR QUESTIONS, COMPLAINTS OR TO OBTAIN INFOR-
MATION ABOUT COVERAGE CALL: 407-562-0661

OTHER LIMITS AND EXCLUSIONS MAY APPLY REFER TO YOUR POLICY

PREPARED
04/26/93
FP-7001.4C

COUNTERSIGNED

BY

ALAN JACKSON INS AGY INC
407-562-0661

1993
AGENT

YOUR POLICY CONSISTS OF THIS PAGE, ANY ENDORSEMENTS
AND THE POLICY FORM. PLEASE KEEP THESE TOGETHER.



ROLLINS HUDIG HALL

Rollins Hudig Hall of Florida, Inc.
2650 North Military Trail, Suite 300
Boca Raton, Florida 33431-6339
Telephone 407/241-4440 Toll Free 800/848-4174
Fax 407/241-4720

LS

February 1, 1993

Mr. & Mrs. Paul D. Taggart, Jr.
1375 Ivy Court, #202
Vero Beach, Florida 32963

Cancellation our policy

RE: Homeowner Insurance
POLICY: DHW-8518351-C
EFFECTIVE: April 17, 1993

Dear Mr. & Mrs. Taggart,

You will be receiving a notice directly from the West American Insurance Company advising you of their intent not to renew the above mentioned policy. Cancellation is by reason of this agency no longer representing this company and is no reflection on your insurability.

We are now working on a new insurance proposal for you, re-quoting through various insurance companies to find the company best suited to you with the same or better coverage and premium than you now have.

We will be contacting you shortly, with our offer to replace this coverage. In the meantime, should you have any questions, please do not hesitate to call.

Very truly yours,
ROLLINS HUDIG HALL OF FLORIDA, INC.

Deborah A. Vincett

Deborah A. Vincett
Personal Risk Representative

/tvc

WEST AMERICAN INSURANCE COMPANY OF THE OHIO Casualty Group of Insurance Companies

POLICY NO	STATE AGENT	EFFECTIVE	EXPIRATION
DIH 8518351	09-53-0287	04/17/92	04/17/93
INSURED		AGENT TELEPHONE: (407) 241-4440	
PAUL D & SHIRLEY E TAGGART JR		ROLLINS BURDICK HUNTER OF FL INC	
1375 IVY COURT #202		2650 N MILITARY TRAIL SU 410	
VERO BEACH FL 32963		BOCA RATON FL 33431	

FIRST MORTGAGEE
 GLENDALE FEDERAL BANK, FED SAV BK
 ITS SUCR &/OR ASSIGNS
 10509 VISTA SORRENTO PARKWAY
 SAN DIEGO CA 92121

HOMEOWNER - INTENT NOT TO RENEW

07/01/93

PLEASE BE ADVISED THAT THE ABOVE CAPTIONED POLICY WILL NOT BE RENEWED
 AND POLICY COVERAGE WILL EXPIRE ON 04/17/93.

THIS ACTION IS NECESSARY BECAUSE YOUR AGENT NO LONGER REPRESENTS THIS COMPANY
 AND IN NO WAY REFLECTS UPON YOU AS AN INSURED.

07457	109	110
-------	-----	-----

LOAN
NUMBER

6860995

ATLANTA GA 30302
404-261-9000
INSURANCE BINDER

ADDITIONAL INSURED-NAME AND ADDRESS

PAUL D TAGGART JR
SHIRLEY ELAINE TAGGART
1375 IVY CT #202
VERO BEACH FL 32963

MORTGAGEE

GLENDALDE FEDERAL BANK/FSB
ITS SUCCESSORS AND/OR ASSIGNS
10509 VISTA SORRENTO PARKWAY
SAN DIEGO, CA 92121
PHONE (800) 669-1212

Binder period					Described Location (if different from mailing address above)
EFFECTIVE TIME	<input type="checkbox"/> NOON	<input checked="" type="checkbox"/> 12 01 AM			
	Mo	Day	Yr	Coverage Amount	
INCEPTION	04	17	93	\$ 140,000	
	Annual Premium				VERO BEACH, FL 32963
EXPIRATION	07	16	93	\$	

We have not received a new/renewal insurance policy covering your mortgaged property. We do not believe this was your intention, but a lapse in coverage has occurred.

We have secured temporary coverage in the form of a binder through the American Security Insurance Company. This binder covers the described property for risks of direct loss subject to the terms, conditions, and limitations of the policy in current use by the company.

Since the American Security Insurance Company will insure you automatically without reviewing your property, premiums are higher than most other policies. Property coverage is limited to the structure only, and your personal property and liability are not covered. For example, if your home was burglarized, it would not cover the stolen personal property. This policy is a legal contract between the company and you.

Please remember, it is your responsibility to maintain insurance coverage on your property. If evidence of acceptable coverage is not received permanent coverage will be obtained through the American Security Insurance Company and you will be charged the annual policy premium indicated above.

This coverage will be cancelled flat should duplicate coverage exist with a policy you may have, provided a copy has been sent to us as verification.

CLAIMS INFORMATION ONLY

ALL OTHER INQUIRIES

1-800-326-2845

1-800-669-1212

MSP-RES-B(5-91)

Your hazard insurance coverage has expired or is being cancelled as of the inception date of this binder. The terms of your mortgage contract require you to maintain insurance coverage at all times.

We have secured temporary coverage in the form of a binder through the American Security Insurance Company. This binder covers the described property for risks of direct loss subject to the terms, conditions, and limitations of the policy in current use by the company.

Since the American Security Insurance Company will insure you automatically without reviewing your property, premiums are higher than most other policies. Coverage limits may protect only the lender's interest in the property, and may not provide replacement cost coverage. Property coverage is limited to the structure only and your personal property and liability are not covered. For example, if your home was burglarized, it would not cover the stolen personal property. This policy is a legal contract between the company and you.

If evidence of acceptable coverage is not received, permanent coverage will be obtained through the American Security Insurance Company and your loan will be charged accordingly.

This coverage will be cancelled flat should duplicate coverage exist with a policy you may have, provided a copy has been sent to us as verification.

hurricanes, floods, tidal waves, and earthquakes. The bill encourages disaster preparedness efforts in disaster prone regions and provides a new source of funding for these activities. This program will help reduce disaster losses and broaden coverage for homeowners to protect themselves against natural disasters, therefore saving money for taxpayers nationwide.

I hope this information is helpful to you. Please be assured that I will be closely monitoring this issue. I look forward to seeing you at the hearing, reading about your own experiences, and adding your statement to the public record.

With warmest regards,

Sincerely,



Jim Bacchus
Member of Congress

JB:quo

Jim - This is not "disaster"-related (I don't think!), but it is a disaster:

Our neighborhood has a lakefront lot which is under the control of our homeowners association. At the meeting of our association the other evening, we were informed by our Treasurer that our insurance on said lot, which had been \$142.00 per year was now going to cost \$3,600.00 for the same coverage!

I have lived in Dommerich Estates for 23 years, have been a Director and President of our homeowners association and am not aware of any claim against our policy and we get hit with an increase such as this.

I'm sure there is nothing you or anyone can do, but wanted to get one more "horror" story on the record.





September 8, 1993

Representative Jim Bacchus
432 Cannon House
Office Building
Washington, D.C. 20515

Dear Representative Bacchus:

It is important that you support the efforts to provide a catastrophe re-insurance program for not only Florida, but the country.

Such a program is like a FDIC program for the protection of the public in the banking system in the event of a substantial disaster.

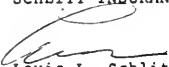
A similar proposal would provide the public with re-insurance so that in the event of a disaster their insurance will respond.

In the event of serious disaster, Florida has found that we cannot operate and due to lack of re-insurance companies withdraw from the state.

I think it only makes sense to support an industry program to allow the insurance industry to effectively serve its customer.

I encourage you to co-sponsor HR2873 or S1350.

Sincerely,
SCHLITT INSURANCE SERVICES, INC.


Louis L. Schlitt, CLU, CPCU, ChFC
President

LLS/gd
cc: Florida Association of Insurance Agents
P.O. Box 12129
Tallahassee, FL 32317-2129

Schlitt Insurance Services, Inc.
Schlitt Investor Services, Inc.*
Schlitt Mortgage Services, Inc.
Louis Schlitt, Inc.
S.I.S. Partnerships
S.I.S. Realty**

Vero # (407) 567-1188 Brevard # (407) 723-1211
FAX # (407) 778-1416 FL 1-800-736-3448
1717 Indian River Boulevard, Suite 300
Vero Beach, FL 32960

(Brevard Branch: 47 West New Haven Avenue, Suite 102, Melbourne, FL)

 NASD

**Real Estate
Broker

 SIPC

 IE

Charlotte E. Goss
820 Barnes Boulevard
Rockledge, FL. 32955
(407) 631-4426

October 25, 1993

Congressman Jim Bacchus
432 Cannon House Office Building
Washington, D.C. 20515

Attn: Tricia Halsten

Dear Jim:

In response to your letter of October 20, 1993. I have enclosed the information you requested.

Please note the sequence of events. We received our cancellation notice on April 17, 1993. I wrote to them on April 26, 1993, and on June 3, 1993 we were reinstated in time for the June 15, 1993 renewal of our existing policy. Copies of all these papers are enclosed. I've also enclosed a copy of an article in our local paper, The Reporter, which you may not have seen.

I am pleased that you didn't forget I was one of those who attended and spoke at the meeting in Melbourne. I am also pleased that you didn't simply ignore the whole issue as politicians are often apt to do. We all appreciate your help, and hope Congressman Joe Kennedy will be willing to work as hard. Please impress on him our considerable concern over this whole matter.

Thank you again.

Sincerely,


/g

Enclosures: 6

Charlotte E. Goss
820 Barnes Boulevard
Rockledge, FL. 32955
(407) 631-4426

April 26, 1993

Foremost Insurance Company
P. O. Box 2450
Grand Rapids, MI 49501-2450

Re: Notice of Non-Renewal
Policy #103-603374982-0-92

Dear Sir/Madam:

To say we are bitterly disappointed over the action of what has - until now - been considered one of the 'foremost' insurers of mobile homes is the understatement of the year. Your company's statement that this "decision was not taken without careful consideration and deliberation" does not ring true. If certain areas of any state present on-going problems for any insurance company, that should be considered when setting premium rates. If your officers did not know that a catastrophe such as Hurricane Andrew was a possibility in Florida, they did not deserve to be officers. Hurricanes, tornadoes, floods, etc. are acts of God and the people you insure should not be held accountable. Neither should Foremost, you say? Ah, but that is the business you are in and need to take previous history into consideration in order to set rates instead of cancelling unsuspecting clients.

It seems to us, that just because YOU didn't plan accordingly, WE are being punished, and we feel cheated and angry. We are convinced that had we been living in a 'regularly built' rather than a mobile home we would not suddenly find ourselves in what you so politely call "an excessive number of customers" in our area. We are also convinced that if you consider what you are doing to be legal, it is certainly far from moral or ethical behavior and we intend to report this action to the Insurance Commissioner.

I hope the Commissioner is sufficiently enraged by the recent actions of companies such as yours that he will coordinate a thorough investigation if he has not already done so. Consequently a copy of this letter is going to him with what I hope will result in a completely different attitude on the part of Foremost Insurance Co.

Sincerely,

Copy to: Tom Gallagher, Insurance Commissioner ✓


FOREMOST

INSURANCE GROUP

P.O. BOX 2450

GRAND RAPIDS, MICHIGAN 49501-2450

 4/17/93
 (see att.)

Dear Customer:

With the impact of Hurricane Andrew, at least half a dozen insurance companies have gone out of business because of hurricane-related losses. The reasons for their failure are simple: they had too many customers concentrated in one area. As a result, they were unable to fulfill their promises to customers who filed claims.

For several years, Foremost has deliberately limited the number of customers we insure in certain areas of Florida in order to prevent excessive exposure to storms like Andrew. Unfortunately, you live in an area where we still have too many insureds. In order to reduce our concentration of policyholders in your area, we will not renew your policy beyond its current expiration date. Please be assured your current coverage is still intact through your expiration date.

We are notifying you well in advance so you have adequate time to find alternative insurance. Enclosed you will find an official Non-Renewal Notice. Please do not wait until your expiration date before seeking alternative insurance - doing so may cause you to have a lapse in coverage, which is undesirable and unnecessary on your part.

This action in no way reflects any wrongdoing on your part. In addition, your agent had nothing to do with this measure; it is solely our company's decision and was not taken without careful consideration and deliberation.

Your current agent is still your best source for alternative coverage, and we recommend you contact your agent at your earliest convenience. As an independent agent, they can offer you a variety of companies and coverages from which to choose, providing a custom package to meet your needs. This letter will serve as documentation of your good standing as a customer, if a future insurance company requires it.

We never like to lose a customer, but these measures are necessary to maintain financial stability. Again we thank you for selecting Foremost to provide your protection to date, and we apologize that we're unable to continue offering you our insurance.

Sincerely,

 William G. Pratt
 Zone Vice President

whose?

© Foremost Insurance Group consists of Foremost Insurance Company, Foremost Signature Insurance Company, Foremost Property and Casualty Insurance Company (industrial), American Republics Insurance Company (Florida) and Foremost United of Texas and Foremost County Mutual Insurance Company which conduct business in Texas only under a management agreement. "Foremost" and the "F" logo are trademarks of Foremost Corporation of America. Reg. U.S. Pat. & Tm. Off.

FPM 100-115

NOTICE OF NON-RENEWAL

POLICY NO.	103-603374982-0-92	DATE OF NOTICE	04/17/93
FILE HOME			
AGENCY OR OFFICE AT:	CANCELLATION OR TERMINATION WILL TAKE EFFECT AT		
Grand Rapids, MI	06/15/93 12:01 A.M. Standard Time		

INSURANCE COMPANY

NAME AND ADDRESS OF LIENHOLDER

FOREMOST INSURANCE COMPANY
P.O. BOX 2450
GRAND RAPIDS, MI 49501-2450

NAME AND ADDRESS OF INSURED
GOSS, JOHN D & CHARLOTTE E.
820 BARNES BLVD. LOT A 6
ROCKLEDGE FL 32955

ON-RENEWAL

You are hereby notified in accordance with the terms and conditions of the above mentioned policy that the above mentioned policy will expire effective at and from the hour and date mentioned above and the policy will not be renewed for this reason:

~~THIS TIME WE HAVE AN EXCESSIVE NUMBER OF CUSTOMERS IN YOUR AREA;~~ ²SO TO REDUCE OUR EXPOSURE WE WILL NOT OFFER YOU COVERAGE BEYOND THE CANCELLATION TERMINATION DATE SHOWN ABOVE.

*We've had
this coverage
for 6 years - we
were not excessive
at that time!*

Please See Reverse Side for Important Notices

FORM PRINTING & SUPPLY, INC. © 1991
059 03/91

INSURED'S COPY

Lynn M. Lee
Authorized Representative



COMPANY USE ONLY

COUNTERSIGN: N
 AGENT NO.: 09 - 3798 - 999
 POLICY NO.: 103 - 6033749820 - 0
 TRANS TYPE: SR
 SOURCE CODE: 99
 SCHEDULE:
 LIENHOLDER NO.:

0080640 0389.01 7212480 0000.01

LOU HOWARD INSURANCE AGY INC
 PO BOX 540069
 MERRITT ISLAND FL 32954-0069

103-6033749820-93

09

GOSS, JOHN D & CHARLOTTE E.
 820 BARNES BLVD. LOT A 6
 ROCKLEDGE FL 32955

Dear JOHN D & CHARLOTTE E. GOSS:

It's time to renew your mobile home insurance policy. Your Foremost renewal premium notice is enclosed, along with a sheet listing your policy coverages and coverage limits. Take a few minutes right now to review your coverages. If you feel your needs have changed or you have any questions about your policy or premium, please contact us at:

(407) 453-1530

LOU HOWARD INSURANCE AGY INC
 PO BOX 540069
 MERRITT ISLAND FL 32954-0069

Otherwise, follow the instructions on the renewal premium notice, and return your premium payment before 06/15/93 to ensure continuous coverage for your home.

Thank you for selecting us to meet your home insurance needs.

Sincerely,

LOU HOWARD INSURANCE AGY INC

09 - 3798 - 999 - 4

P.S. To report claims, contact us, or call the Foremost Claims Line toll-free at 1-800-527-3907.

Foremost Insurance Group consists of: Foremost Insurance Company, Foremost Signature Insurance Company, Foremost Property & Casualty Insurance Company, American Federation Insurance Company, and Foremost County Mutual Insurance Company, which conducts business in Texas only under a management agreement.

FOREMOST
 INSURANCE COMPANY
 GRAND RAPIDS, MICHIGAN 49501
 1-800-527-3905

Policy Number 103- 603374982- 0- 93

Renewal Due By 06/15/93

RENEWAL PREMIUM NOTICE

June 3, 1993

Dear JOHN D & CHARLOTTE E. GOSS:

Your Foremost mobile home policy renewal premium is due soon. We've enclosed your Policy Page One, which lists your policy coverages, coverage limits and any applicable deductibles. Please review the information on Page One to make sure you have the coverages you need and want.

If you have any questions or feel your insurance needs have changed, please contact your agent:

LOU HOWARD INSURANCE AGY INC

(407) 453-1530

If your coverages are all right as listed on Page One, follow these four steps to ensure continuous protection for your home:

1. Place a check mark next to the payment option you want on the payment stub below.
2. Write any changes to your name, address or other policy information on the back of the stub.
3. Write a check or money order for the premium "Amount Due Now" which you have selected. Write your policy number on the check or money order.
4. Tear off the payment stub, and mail it with your check or money order in the enclosed envelope before 06/15/93.

Thank you for insuring your home with Foremost Insurance Company!

NOTE: The enclosed Policy Page One provides important information about your Foremost policy coverages. We suggest that you keep it with your other financial documents.

----- Detach and return the form below with your premium payment to ensure proper credit to your account.

The Reporter May 6, 1993 P. 11

Insurance companies under investigation

State Treasurer and Insurance Commissioner Tom Gallagher today issued an emergency rule ordering investigations and public hearings on insurance company plans to raise rates, and cancel or non-renew homeowners' insurance policies now held by hundreds of thousands of Floridians.

Gallagher said the unprecedented inquiry is designed to determine if the companies' plans will hurt the public, violate current contracts with policyholders, constitute misrepresentation by the companies to consumers, and result in rates that are excessive or unfair.

"In the aftermath of Hurricane Andrew, we have been warning that insurance companies are lightning their belts in Florida because they are afraid they'll take another big hit like the very expensive Andrew," Gallagher said. "The citizens here are not going to just sit back and watch this homeowners' insurance crisis disrupt their lives. We want answers. Like millions of other Floridians, we want to know why - after all these years of collecting money from the citizens here

- the companies think they can justify big rate hikes and massive policy non-renewals. What do the companies plan to do? How can they defend their actions? Is it legal? And, if so, are they carrying out their plans, creating the fewest problems possible for the public?"

More than two dozen companies have told state insurance regulators in the aftermath of Hurricane Andrew that they intend to non-renew or cancel existing policyholders throughout Florida - a move Gallagher said could disrupt coverage for more than 350,000 of the state's 3.5 million consumer with homeowners', renters, and mobile home insurance.

"Fortunately, the Legislature enabled us to establish an 'insurer of last resort', the Joint Underwriting association, to provide coverage to consumers who are unable to obtain coverage in the standard market," Gallagher said. "Still, the existence of the JUA doesn't excuse what the companies are doing to their policyholders."

Gallagher said daylong public hearings have been scheduled for May 17 in Pinellas County and May 18 in Broward County on Allstate Insurance Co.'s plan to non-renew 300,000 of its one million-plus homeowner's policyholders over the next two years. Allstate has also announced it will seek substantial rate hikes for remaining policyholders, Gallagher said. Subsequent public hearings have been scheduled to consider planned non-renewals, cancellations and rate hikes by: Travelers, Prudential and Foremost insurance companies. Other hearings will be scheduled, as needed.

Members of the public as well as

insurance department staff and outside witnesses will be encouraged to examine the insurance company proposals, he said.

"Andrew was the nation's costliest natural disaster," Gallagher said, "and never before has the Florida insurance market been in such jeopardy. We are in uncharted waters here, trying to keep companies solvent and writing insurance in the state so that the coverage will be available and affordable. At the same time, we have no intention of allowing the companies to illegally mistreat our citizens."

Attached is a schedule of the hearings and a copy of Gallagher's order on Allstate.

State Farm Insurance Companies



A. DUDLEY CRABE, Agency Manager
 1385 Sunset Pk., Suite D
 Melbourne, Florida 32935
 Phone: (407) 294-1731
 Fax: (407) 242-8703

October 25, 1993

Honorable Jim Bacchus
 900 Dixon Blvd.
 Cocoa, FL 32922

Dear Congressman Bacchus,

As you know, I am Agency Manager for State Farm Insurance Companies in Melbourne, Florida and I am very pleased to attend the field hearing on insurance availability held here in Melbourne, Florida. I have been involved in the insurance business for 37 years, after attending Florida State University and receiving my degree in Risk Management.

The availability of insurance through the voluntary market has become a crisis in Florida. Companies simply do not have sufficient reserves to stay in business, should a major hurricane hit the Florida coast. As a result of Andrew, several smaller companies became bankrupt and many larger companies expressed a desire to reduce their exposure to catastrophic loss, because they felt their reserves were not sufficient to fulfill the promises made in insurance contracts. The problem is two-fold. One - inadequate rates - and second - reinsurance is not available to most companies.

The solution, therefore is to permit our rates to increase to a level sufficient to meet the obligations to the companies, and second - for the Federal Government to establish a catastrophe fund, which can be called upon in the event of a severe windstorm, Earthquake or Flood catastrophe in a given area. This trust fund should be funded by insurance companies collecting a surcharge and passing this on - free of tax - to the trust fund.

The proposed legislation which you have co-sponsored seems to be the best alternative to solving this availability crisis.

Sincerely,

Dudley Crabbe
 DUDLEY CRABE
 DC/dm



Geller, Ragans, James, Oppenheimer & Creel

A Partnership Including Professional Associations
CERTIFIED PUBLIC ACCOUNTANTS

MEMBERS
Private Companies Practice Section
American Institute of Certified Public Accountants
Florida Institute of Certified Public Accountants

October 25, 1993

Congressman Jim Bacchus
432 Cannon House Office Building
Washington, DC 20515

Attn: Trisha Haisten

Dear Jim:

In response to your letter of October 14, 1993, I am enclosing a copy of a letter I received from my insurance agent a little over a year ago with respect to the renewal of my homeowners and automobile policies. I think the letter is self-explanatory.

It is interesting to note that with respect to the homeowners policy, all of the claims were as a result of weather damage, not any vandalism or theft. With respect to the automobile policy none of the claims or concerns were a result of any accidents. In spite of this, the insurance company attempted to cancel my policies. While they did not, they certainly did give me a significant rate increase as well as a doubling of my deductible on the homeowners policy.

I believe this situation is one that falls within the purview of what Congressman Kennedy's subcommittee is addressing. Please include this information in the testimony to be presented as additional evidence that insurance companies are not fulfilling their designated role in our society.

Sincerely yours,


Jack S. Oppenheimer

JSO/jd
Enclosure



Serving You

Since 1939

BROWN AND BROWN, INC.

Business • Home • Auto • Life • Group • Bonds

July 2, 1992

Jack S. & Gail L. Oppenheimer
114 Satsuma Drive
Altamonte Springs, Florida 32714

RE: Personal Insurance

Dear Mr. & Mrs. Oppenheimer:

Your personal insurance through Royal Insurance is up for renewal on August 12, 1992. In reviewing your account for the renewal, the underwriter at the company was extremely concerned with the loss history on the file.

The following claims have been reported on your homeowners policy:

7/17/88	Lightning hit sprinkler system	Paid \$ 193.00
11/09/90	Wind/water with roof damage	Paid \$ 690.00
8/02/91	Lightning hit sprinkler system	Paid \$ 177.21
3/25/92	Hail damage to roof	Paid \$6102.87

Additionally, the following items are shown on your auto policy:

2/23/89	Gail - speeding 39 in 25
11/13/90	Jack - speeding 60 in 45
12/21/91	Broken rear window - paid \$ 105.10
3/25/92	Hail damage to car - paid \$3685.46

Royal is willing to continue on your coverages; however, both your homeowners and personal auto policies are being renewed in their "standard" rating program as of the 8/12/92 date. Additionally, your homeowners policy will have a \$1,000. deductible, with no premium credit for the deductible. This "excess rate" requires your approval on the enclosed form. Please sign where indicated, and return in the enclosed envelope as soon as possible. The new annual premium on your homeowners policy will be approximately \$1,011. The new six month premium on the auto coverage will be approximately \$1,401.

If you have any questions with regard to the above, please give our office a call. I'm sorry that this action was taken, but am glad that we can continue to provide coverage for you.

Sincerely,
BROWN AND BROWN, INC.

Rick Combs
Rick Combs, AAM
Personal Lines Manager

October 27, 1993

Congressman Jim Bacchus
432 Cannon House Office Bldg.
Washington, D.C. 20002

I am writing is regards to the article published in Florida Today newspaper regarding property insurance rate increases. I recently received the enclosed letter from Purdential Insurance advising me that my house is now worth \$369,000.00 instead of the \$178,000.00 we have it insured for.

I build this house for around \$150,000.00 and can rebuid it easily for around \$180,000.00 wo I protested the unnecessary increase and suggested they might be trying to load me up with premiums for about \$150,000.00 more house that I own. After several converations they adjusted the figure to \$341,000.00. I accused them of trying to raise my rate up to cause a cancellation and she stated that I was one of their more highly regarded accounts.

I had planned to put this house on the market January 1 and was wondering if my asking price of \$225,000.00 might be to high and I am ona \$60,000.00 lot.

Sincerely,



Tom H. Everett
5800 Deer Trail
Titusville, FL 32780



Prudential Property and Casualty
Insurance Company

A Subsidiary of The Prudential Insurance
Company of America

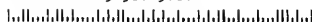


P. O. Box 2627
Jacksonville, FL 32232
1-800-437-5556
UF66101706

Policy Number: 35 4H566719
Agency Data: 801172 5 CVRL 024

Named Insured
and P.O. Address

Tom P and Marsha J Everett
771 S Industry Road
Cocoa, FL 32926-5826



October 15, 1993

Dear Mr. and Ms. Everett:

A representative recently contacted you to obtain information about the replacement cost of your home. We appreciate your assistance as it enabled us to arrive at a proper valuation.

The completed analysis revealed that your home is currently underinsured. Our records show that it is only covered for \$178,000. We determined the replacement cost to be \$369,000. We believe it is so important for you to increase coverage that we will be making an automatic adjustment at the next renewal to bring your coverage up to this amount. Your renewal billing will reflect the increased coverage and any additional premium.

Increasing your coverage not only helps you meet policy requirements, it will also help you avoid serious underinsurance problems in the event of a loss.

If you have any questions, please contact your agent or call our Client Service Unit at 1-800-437-5556.

Thank you for your cooperation.

Sincerely,

Andrea K. Geisler

Underwriting Department

CC: 801172 5 CVRL 024

6801 Angeles Road
S. Mel. Bch. FL
32958

November 1, 1993

Representative Bacchus
854 Dixon Blvd.
Cocoa, FL 32922

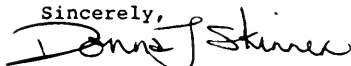
Dear Representative Bacchus,

I called your office today to express my concerns regarding the reform act for federal flood insurance. Your staff informed me of a hearing that had been scheduled earlier in the day. I regret I did not know about it or I would have attended. I would like my letter to be entered into hearing testimony if possible.

I live 600 feet from the ocean. I have one house to the east of me, then A1A, then a beach front house. I have no idea how far I am from the river. My house is in Floridana Beach.

Like many that live in Floridana Beach I am middle income. I can not afford to pay off my house nor risk living without insurance. I can not afford a tremendous increase in my insurance rate, especially with property taxes so high. There has got to be solutions and safeguards for us middle class Floridians living on the island or coastline. Please let me know what I can do to help you on this issue.

Sincerely,



Donna J. Skinner

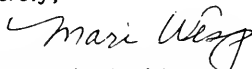
November 2, 1993

The Honorable Jim Bacchus
432 Cannon House Office Building
Washington, D.C. 20515
attn: Tricia Haisten

Dear Jim:

As I have my automobile insurance with Geico, thought I would add my furnishings, fine arts and jewelry to a Homeowners policy by the same company cancelling out my existing policy with another company. To my dismay and unbelief, I was refused; after being urged over the telephone by Geico to combine and have both policies underwritten by them. I filled out my application when it was sent to me and mailed it to Geico. I received a telephone call from them and answered truthfully all their queries. A few days hence I received the enclosed letter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Mari Wesp".

Representative Mari Wesp
Florida Silver Haired Legislature

GEICO

Washington, DC

1-800-841-3000

- Government Employees Insurance Company
- GEICO General Insurance Company
- GEICO Indemnity Company
- Criterion Casualty Company
- Criterion Insurance Agency, Inc.
(NGC - County Mutual Ins.)



ONE GEICO PLAZA
WASHINGTON, D.C. 20076-0001

October 29, 1993

MARI WESP
1430 DIXON BLVD #312
COCOA FL
32922-6472

POST OFFICE RECEIPT SECURED
FILE NO.: H4005545

Property Location: Same

Dear Mrs. Wesp:

To maintain GEICO's good value for all our policyholders, we follow more conservative acceptability standards than many other insurance companies.

After carefully considering your application, we've determined that it does not meet our underwriting requirements. We regret that we cannot accept your request for insurance at this time.

The specific reason for our action is: Location of high hurricane exposure and proximity to water exposure.

Refund of any deposit you may have submitted with your application will follow under separate cover.

Underwriting standards vary from one insurance company to another. We recommend that you contact another company or agent in your local area. See the following page for important state information.

Sincerely,

A handwritten signature in dark ink, appearing to read "Mrs. L. Espinoza", is written over the typed name.

Mrs. L. Espinoza
Property Insurance Center

260-0038

WICKHAM
Construction

1437 Avocado Avenue • Melbourne, Florida 32935 • (407) 254-5180

FAX (407)254-5180

November 5, 1993

The Honorable Jim Bacchus
FL Congressman, District 15
432 Cannon House Office Building
Washington, D.C. 20515

Attention: Tricia Haisten

Dear Jim;

We are facing a serious crises in Florida with property and casualty insurance companies cancelling policies throughout the state in order to limit their liability.

I would like to share with you an example which affects us directly. We own a nine unit apartment complex that was built 10 years ago in accordance with all building code requirements in effect at that time. I personally supervised the construction of this project, being a general contractor. We built this project as a family investment. This apartment complex has been insured by the same insurance company, American States Insurance, since completion in 1983. Although we changed local agents representing us, it has always been insured by American States Insurance.

On November 4 of this year, we received a letter from American States stating that our policy is being canceled due to "severe exposure to wind". This seems ridiculous to me since it has always been exposed to this same wind since 1983 with no ill effects. A copy of our notice of nonrenewal is enclosed.

We hope that this information will be helpful to you in your efforts to require insurance companies honor their commitments.

Sincerely,


David L. Wickham

DLW/v
enclosure

INSURANCE
LINCOLN NATIONAL CORPORATION

☐ NOTICE OF NONRENEWAL
☐ NOTICE OF CANCELLATION

AMERICAN STATES INSURANCE COMPANY
INDIANAPOLIS, INDIANA 46204-1275

Date 11-02-93

☐ AMERICAN ECONOMY
Insurance Company
(Only if checked)

☐ AMERICAN STATES INSURANCE
COMPANY OF TEXAS
(Only if checked)

☐ AMERICAN STATES LLOYDS
Insurance Company
(Only if checked)

Hereby gives you written notice in accordance with policy conditions of the termination of

Policy No 01-CD-376973-10 Insured Wickham Development

Agent Joy Gilliland Agency

By virtue of this notice, as issued to you, the Policy will expire or be cancelled and all liability cease on 12-22-93 at the hour on which said Policy became effective. No further notice will be sent.

If the premium has been paid, the excess premium above the pro rata premium for the expired term, if not tendered to you herein, will be refunded on demand. If the premium has not been paid, a bill for the premium earned to the time of the termination will be forwarded in due course.

The company will terminate this policy on the date above for the following reason(s)

☒ **X DUE TO SEVERE EXPOSURE TO WIND**

☐ Due to nonpayment of premium

☐ Your insurance is not within the underwriting program of the company and the company is exercising its option to cancel during the initial processing period.

☐ The company's contractual or statutory obligations will expire effective at the hour and date mentioned above and the policy will NOT be renewed.

☐ Your **automobile** insurance is unacceptable to the company because the driver's license or motor vehicle registration of the named insured or of any other operator who either resides in the same household or customarily operates an automobile insured under this policy has been under suspension or revocation during the policy period (or, if this policy is a renewal, during its policy period or the 180 days immediately preceding its effective date) (NOT applicable in Michigan).

☐ Your **automobile** insurance is unacceptable to the company for the statutory reason(s), shown below.

☐ This **automobile** policy is unacceptable to the company. The Company is willing, upon your request, to issue a new policy within the same insurer or within another insurer under the same ownership or management if request received prior to the effective date of this notice.

One piece of FIRST CLASS mail addressed to

INSURED

Wickham Development
1437 Avocado Avenue
Melbourne, Florida 32935

PLEASE RETURN THE POLICY.

One piece of FIRST CLASS mail addressed to

MORTGAGEE OR OTHER IDENTIFIED INTEREST

State Street Bank & Trust
P O Box 149127
Kansas City, Mo. 64141

By

Cedric M. Enley
President

RETURN PREMIUM

Statutory Reason(s) (if applicable)

MAIL THIS COPY TO INSURED

November 5, 1993

The Honorable Jim Bacchus
The House of Representatives
432 Cannon House Office Building
Washington, D.C. 20515
Attention Tricia Haisten

Dear Congressman Bacchus:

Thank you for the opportunity to comment on the topics contained in your letter of October 13, 1993. I will keep my comments brief and to the point.

Cancellations of Home Owners Insurance

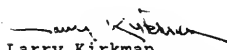
In my opinion this is an issue that can best be handled by individual states and their respective governing bodies. I do not believe that the federal government has a legislative role to play in this field.

Natural Disaster Protection Act of 1993

This type of coverage appears to be a responsibility that is more appropriately handled by the federal government. However, a program of this nature should be based on one fundamental premise and that is, the home/property owner must be responsible for the costs/premiums and not the taxpayers.

During the recent mid-west floods it was quite apparent that many people who suffered great property losses had voluntarily and of their own volition decided to live in a flood plain region. There were numerous cases of families who had been flooded more than once but yet continued to refuse to purchase flood insurance and relied entirely on fate and/or the federal government to cover their casualty losses. It seems only fair that if you subject your property to a reasonably predictable risk you should either cover yourself through insurance or be prepared to accept the consequences.

Sincerely,


Larry Kirkman
1837 Colonial Drive
Green Cove Springs, FL 32043

LK:jwm



Federation of Mobile Home Owners of Florida, Inc.

P O Box 5350 Largo, FL 34649-5350 813/530-7539 800/959-7539 (Florida Only) Fax 813/535-9427

5 November 1993

The Honorable Jim Bacchus
432 Cannon House Office Building
Washington, D.C. 20515

Dear Sir:

We appreciate the opportunity to comment on the insurance crisis in Florida after Hurricane Andrew. Finding solutions to the state's insurance problems regarding all types of housing is monumental, and is especially troubling for mobile/manufactured home owners.

First, we are greatly concerned about the situation after the moratorium is over. The bills before the State Legislature suggest that "no insurer may cancel or non-renew in excess of five percent of its in-force number of policies in any line of business, in any single designated district during any one calendar year." This is a good proposal as we are concerned that insurance companies will drop mobile home owners first because mobile homes are viewed by the insurance industry as a "higher risk" than conventional housing.

Second, does the recommendation on the orderly carrier withdrawal include notifying homeowners prior to being cancelled so they have an opportunity to find insurance elsewhere? Homeowners are in a "Catch-22" if they are cancelled before finding a new policy, because they can be denied coverage by a new company simply because they have been cancelled from another company. Perhaps, something should be included that if cancelled from a policy through no fault of the policyholder, that this be noted on the cancellation of the policy. Agents are telling us this can be a problem for homeowners.

Third, the mobile/manufactured housing industry will feel the effects of the insurance crisis most. According to the 1990 U.S. Census, there are more than 821,000 mobile homes in the state. Insurance industry analysts suggest that if no hurricanes hit Florida in the next two or three years, the industry will settle; however, mobile homes will probably still need the state-sponsored Residential Property and Casualty Joint Underwriting Association (JUA) as it will be the only "company" writing insurance for this type of housing. How can mobile home owners continue to be attractive to the private insurance sector? Although it's a relief to know the JUA is there for mobile home owners, we also realize this is a "quick fix" and that a competitive market keeps insurance premiums low.

I want to share two excerpts from articles that appeared in the *Vero Beach Press Journal* and from the *Palm Beach Post* (EXHIBIT A).

"Local insurance agents laugh when asked about the availability of new mobile home coverage," begins the article in the *Vero Beach Press Journal* that ran July 24. "There isn't any," said David Thompson, an agent at Buckingham-Wheeler Agency in Vero Beach. "What mobile home insurance?" asked Donna Keys, a partner with Sebastian Insurance in Sebastian.

"But Thompson, Keys and other agents advised the 5,000 Indian River County families that own mobile homes to stay calm. The Florida Legislature required most insurance carriers to keep existing policies in place at least until November 15 and mobile home owners who need new coverage can buy it from the state-sponsored [JUA]." The article does not speculate what will happen after the moratorium, but refers readers to the JUA.

In an editorial that ran in the July 16 edition of the *Palm Beach Post*, the editor wrote: "People who live in manufactured houses are having two stones thrown at them. Like everyone else in post-Andrew Florida, they expect high - much higher - insurance premiums. Also on their financial horizon are new standards that could raise the price of such homes by 35 percent." The article goes on to note that "What's at issue is the low end of the housing market, where price sometimes may not be the difference between more or less safety but between a house and homelessness." The article rightly came to the conclusion that HUD's proposals to toughen wind resistance standards for manufactured homes will only create more homeless.

As you can see we are not alone in our assessment of the mobile home industry in this state after Andrew.

Facts concerning mobile home population in Florida: (EXHIBIT B)

When your subcommittee is weighing the delicate balance between what insurers are saying that rates need to be increased to remain in business against what homeowners - especially mobile home owners - are able to pay, keep these demographic figures in mind.

According to a study conducted by Foremost, the largest insurer of mobile homes in the United States, in 1990, the demographics of the state's 1.2 million mobile home owners appears like this: 37 percent are age 70 years and over; 28 percent are between 60 to 69 years of age. That means 65 percent of the mobile home owners in the state are age 60 and over. This tracks with the occupation of head of household as 54 percent noted they are retired.

Looking at annual household income: 20 percent had less than \$10,000 annual household income; 35 percent had less than \$20,000 household income. Therefore, 55 percent of mobile home owners have less than \$20,000 annual income.

What was the reason these people purchased a mobile home over other types of housing? 77 percent said the reason was because it was "less expensive to buy." The second highest reason stated was because they "wanted to own our home instead of rent." (51 percent gave as reason)

How many residents use the mobile home as the primary residence? 94 percent responded that it was their primary residence and 91 percent noted they resided in the home for twelve months.

Facts concerning HUD's proposed standards:

When reviewing new standards for mobile homes such as those proposed by HUD, government has to weigh the safety considerations with the cost to the home. Our association is not technically qualified to give opinions concerning the engineering and scientific issues outlined in HUD's proposal or in suggestions the state might prepare; however, we do have some concerns about the total package being developed.

First, the projected cost to adhere to the proposed HUD standards is approximately \$10,000 per mobile home. A HUD advisory council estimated that the proposed standards would cost \$6 to meet for every \$1 in losses they prevent. Is that acceptable for a type of housing that is being purchased because it is affordable?

Second, it has been suggested that with increased standards the cost for insurance will decrease. Foremost tells us it won't until studies are completed by insurance companies to determine if the homes with the new standards actually do perform better in storms than they used to. This could take years. Meanwhile rates continue to increase.

Third, new tie-downs laws and foundation requirements have been suggested by HUD and talked about by this commission at its hearing in Miami as possible solutions to giving mobile homes more safety. Although good ideas, here are the problems:

1. Who will inspect and enforce the stricter tie-down and foundation requirements? Who will bear the cost of ensuring compliance without which the standards are worthless? Noncompliance with existing standards was a major factor in the losses resulting from Hurricane Andrew. Most counties in Florida do not have inspectors who inspect tie-downs on existing homes. New homes are inspected once and never looked at again. Proper inspection needs to be part of the overall solution.

2. Permanent foundations, which will probably require a poured or mortared perimeter wall, will make an economic and legal impact on mobile home parks. Here's how:

* Permanent foundations will increase the cost of siting a single-wide home by approximately \$2,500 and a double-wide home by \$4,000, according to the Manufactured Housing Institute (MHI).

* Permanent foundations will require frame and utility design changes by manufacturers that could also increase the cost of the home.

* If the home is ever moved, the cost of removal and site restoration will increase also.

* Currently mobile homes fall under the Department of Motor Vehicles and mobile home owners purchase motor vehicle tags. Permanent foundations would require a restructuring of the state taxing method if tags are no longer affixed to the home as it would seem the home would be permanent. In addition, permanent foundation homes will have to be taxed as real estate rather than personal property and the DMV would have to replace this lost revenue.

* Because of rental mobile home parks where a park owner owns the land and the homeowner owns the home, the tax issue would become very interesting if mobile homes are permanent and are taxed as real property.

* Many local codes or ordinances prohibit the permanent installation of homes in a land-lease community situation such as mobile home parks.

* Requiring permanent foundations would significantly decline the value of existing homes that are not sited on permanent foundations.

* Who will inspect the permanent foundations and enforce the results of inspection and how will it be funded?

* If permanent foundations were put into place, could insurance companies guarantee lower premiums for mobile home owners?

Again, government must weigh and ask: Are we risking the affordability of mobile homes without a guaranteed return on safety?

The HUD standards for mobile homes that were put into effect in 1978 have been good for the industry. There are many homes in this state that were built prior to 1978 and the HUD standards. In fact, according to Foremost's study of mobile home owners in the state, 49 percent said they had a home built before 1977. Therefore, even if new standards are put into place, we're not going to see the ramifications for many years ahead as there are currently 821,000 mobile homes in this state. It will take many years to replace all of these homes with homes built after 1993.

When reviewing the legal ramifications, the increased costs, and the reality that even if standards are increased, there are still thousands of homes under the old standards, we feel inspection of mobile home tie-downs is the key to making existing mobile homes more safe. If homes can be manufactured to withstand winds over 110 miles per hour and can be done without increasing

the cost by only a few thousand dollars as opposed to the estimated \$10,000, that would be beneficial, too. Permanent foundations is a problem simply because of the way mobile home parks are structured with one person owning the land and another owning the home.

We appreciate the opportunity to give input about the unique challenges mobile home owners face and want to assure your subcommittee that we are willing to assist in any way possible. The biggest challenge on the state's insurance crisis is this: the price of insurance could mean the difference between having a home and being homeless.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Bill Williams". The signature is fluid and cursive, with a large initial "B" and "W".

Bill Williams
President

EXHIBIT A

CLIPPING BUREAU OF FLORIDA
1-800-442-0332
P.O. BOX 3158
CLEARWATER, FLORIDA 34630-8158
PALM BEACH POST
DAILY - - 245,000

JUL 15 1993

Don't blow off housing

People who live in manufactured houses are having two stones thrown at them. Like everyone else in post-Andrew Florida, they expect higher — much higher — insurance premiums. Also on their financial horizon are new standards that could raise the price of such homes by 35 percent.

The hurricane last August woke up communities to lax inspections and shoddy construction. It showed insurance companies how wrong their loss predictions were. Changes must be made, but not all that is possible is humanly desirable.

Manufactured housing — mis-called mobile homes — was exceptionally vulnerable. The hurricane destroyed 8,000 units, along with another 130,000 single-family homes and apartments. That is a small percentage of the total, but a high percentage of the mobile homes in the area. Red Cross figures suggest that mobile homes were 21 times as likely to be lost as conventional houses. The inevitable outcome is higher insurance rates. The Foremost Insurance Group sought a 107 percent increase for mobile homes before the rate freeze.

A state study recommended tougher wind resistance standards for manufactured homes. The U.S. Department of Housing and Urban Development is considering some drawn up by the American Society of Civil Engineers. The industry is fighting the standards, which it claims would raise its average

Raising the cost of post-Andrew manufactured homes will only create more homeless.

home price from \$28,400 to \$38,340. A HUD advisory council estimated last week that the proposed standards would cost \$6 to meet for every \$1 in losses they prevent. HUD's final ruling is expected in a few weeks.

What's at issue is the low end of the housing market, where price sometimes may be not the difference between more or less safety but between a house and homelessness. A country with an unacceptable number of people without homes cannot turn perfectionist on this issue. Bruce Savage of the Manufactured Housing Institute says his industry can live with higher wind standards but not some that are tougher than those for site-built houses. "If you say 110 mph for everybody, we'll do it," he says, "but don't say 110 for us and 100 for everyone else."

There is room for compromise. Another state recommendation was to require hurricane-proof community centers at mobile-home parks. There are 1.3 million manufactured homes in Florida. That shows a need that will not be met if prudence turns into panic.

CLIPPING BUREAU OF FLORIDA
1-800-442-0332
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CLEARWATER FLORIDA 34630-8159

PRESS JOURNAL
DAILY - 36,000
VERO BEACH
JUL 24 1993

Insuring Mobile Homes Possible, Agents Say

By ALLISON BELL

Press-Journal Business Writer

Local insurance agents laugh when asked about the availability of new mobile home coverage.

"There isn't any," said David Thompson, an agent at Buckingham-Wheeler Agency in Vero Beach.

"What mobile home insurance?" asked Donna Keys, a partner with Sebastian Insurance in Sebastian.

But Thompson, Keys and other agents advised the 5,000 Indian River County families that own mobile homes to stay calm.

The Florida Legislature required most insurance carriers to keep existing policies in place at least until Nov. 15.

Mobile homeowners who need new coverage can buy it from the state-sponsored Residential Property and Casualty Joint Underwriting Association.

But confusing changes have rattled the property insurance industry ever since Hurricane Andrew pounded southern Dade County in August 1992.

Some carriers refused to insure mobile homes even before Andrew arrived. After the storm hit, carriers have avoided writing new policies, leaving owners with even fewer options.

The Federation of Mobile Home

Owners of Florida, a statewide group, worries about the future.

"We are afraid insurance companies will make a mass exodus from the mobile home market," said Charity Cicardo, federation executive director.

One carrier, Foremost Insurance Co. of Grand Rapids, Mich., sold insurance to federation members for 11 years. Since Andrew hit, it has given in to state demands that it keep existing policies in place, but it has refused to offer new policies to federation members. Six other carriers refused to take Foremost's place, Cicardo reported.

Foremost insures 125,000 mobile homes in Florida and 1.2 million in the rest of the United States.

Robert Shipman, general counsel at Foremost, said Andrew had not frightened his company away from Florida mobile homes.

"We love them," Shipman said. "We're not pulling out of Florida."

Mobile homes built since new federal safety standards went into effect in 1976 survive storms nearly as well as site-built wood-frame homes, Shipman said.

But Shipman said Andrew has shown his company that it must change the way it spreads risk around Florida.

A single hurricane can wipe out

an insurance carrier if too many customers are clumped together on the same coast. Insurance carriers once solved the clumping problem by buying their own insurance from "reinsurers."

A series of disasters has weakened reinsurers. Now, instead of buying reinsurance, carriers are trying to reduce their own risk by reducing customer clumping, Shipman said.

For Foremost, that means trying to eliminate 20,000 Florida policies and shifting coverage out of areas where it feels it has too many customers.

Mobile homeowners who discover their carrier no longer wants them "probably will have to be moved into the JUA," Keys said.

Carriers that sell homeowners' coverage in Florida underwrite the JUA. It went into effect in the spring. By law, it must avoid competing with private carriers by charging at least 25 percent more. Some customers could see rates go up even more.

The rules for figuring out JUA premiums are complicated. "The only way to tell is to ask your agent," Thompson said.

Any mobile home owners who could end up with JUA coverage should call their insurance agents soon to find out what their premiums will be, Thompson said.

EXHIBIT B

1990

MOBILE HOME INFO

STATE REPORTS



Your Natural Resource for Profits

307

1990

MOBILE HOME NFO

STATE REPORTS

If you have any questions concerning these reports, contact Lila Krueger at extension 8261 in the Marketing Research Department.

FLORIDA

FLORIDA MAN N OI. DEMOGRAPHIC INFORMATION

	<u>1979</u>	<u>1981</u>	<u>1984</u>	<u>1987</u>	<u>1990</u>
Age Of Household Head	°				
Less Than 30 Years		8%	8%	7%	4%
30-39 Years		10%	11%	11%	11%
40-49 Years		7%	8%	9%	9%
50-59 Years		13%	10%	10%	10%
60-69 Years		29%	27%	27%	28%
70 Years And Over		33%	35%	35%	37%
Total Percentage		100%	99%	99%	99%
Number Responding		641	582	1,174	1,362
Average Age		59.5	59.3	59.6	61.4
Employment Status	°				
Of Household Head					
Full Time		34%	32%	31%	35%
Part Time		5%	8%	6%	6%
Retired		56%	55%	56%	56%
Not Employed		5%	6%	7%	3%
Total Percentage		100%	101%	100%	100%
Number Responding		641	582	1,165	1,315
Occupation Of Household Head	°				
Retired		56%	55%	56%	54%
Operator/Laborer		7%	5%	5%	5%
Tech/Sales/Admin Support		10%	10%	9%	7%
Craftsman/Repairman		8%	7%	6%	8%
Managerial/Professional		7%	10%	5%	10%
Service		6%	5%	5%	6%
Student/Armed Forces/Other		6%	6%	11%	9%
Farming/Forestry/Fishing		2%	2%	1%	1%
Total Percentage		102%	100%	98%	100%
Number Responding		641	582	1,173	1,362
Education Of Household Head	°				
Attended Grade School		2%	1%	2%	2%
Grade School Graduate		6%	7%	6%	4%
Attended High School		18%	19%	18%	15%
High School Graduate		41%	42%	43%	44%
Attended College		23%	20%	20%	25%
College Graduate		7%	8%	5%	5%
College Post Graduate		4%	4%	5%	5%
Total Percentage		101%	101%	99%	100%
Number Responding		640	582	1,168	1,357
Marital Status	°				
Now Married		68%	65%	53%	55%
Never Married		7%	7%	7%	7%
Divorced/Widowed/Separated		26%	28%	39%	38%
Total Percentage		101%	100%	99%	100%
Number Responding		641	582	1,174	1,362

Throughout this report, a "" will indicate that comparable data is not available from previous studies.

FLORIDA

	<u>1979</u>	<u>1981</u>	<u>1984</u>	<u>1987</u>	<u>1990</u>
Annual Household Income					
Less Than \$10,000	60%	38%	31%	29%	20%
\$10,000 - \$19,999	32%	40%	40%	37%	35%
\$20,000 - \$29,999	6%	17%	18%	20%	23%
\$30,000 - \$39,999	1%	3%	7%	9%	12%
\$40,000 And Over	.	2%	4%	5%	10%
Total Percentage	99%	100%	100%	100%	100%
Number Responding	463	641	582	1,174	1,362
Median Income Level	\$8,700	\$11,900	\$13,900	\$14,200	\$18,200
Total Net Worth	.	.	.	.
Less Than \$50,000					43%
\$ 50,000 - \$ 99,999					30%
\$100,000 - \$249,999					19%
\$250,000 - \$499,999					6%
\$500,000 - \$999,999					2%
\$1,000,000 And Over					1%
Total Percentage					101%
Number Responding					1,251
Median Net Worth					\$62,000
Household Size	.				
1 Member		25%	25%	36%	35%
2 Members		57%	55%	45%	49%
3 Members		10%	9%	10%	7%
4 Members		4%	8%	6%	6%
5 Or More Members		4%	4%	3%	4%
Total Percentage		100%	101%	100%	101%
Number Responding		641	582	1,174	1,362
Average Household Size		2.1	2.1	2.0	2.0
RMA Population Densities					
Less Than 50,000	32%	29%	51%	40%	37%
50,000 - 499,999	35%	35%	24%	31%	28%
500,000 - 1,999,999	33%	36%	13%	19%	24%
2,000,000 And Over	0%	0%	13%	9%	11%
Total Percentage	100%	100%	101%	99%	100%
Number Responding	463	641	582	1,174	1,362
Family Household Designation	.				
Husband And Wife		68%	65%	53%	55%
Male And Child/Other Relative		0%	1%	1%	1%
Female And Child/Other Relative		4%	6%	7%	6%
Male Living Alone		4%	4%	9%	9%
Female Living Alone		21%	21%	27%	25%
Male And Non-Relative		1%	1%	1%	1%
Female And Non-Relative		2%	2%	1%	2%
Total Percentage		100%	100%	99%	99%
Number Responding		641	582	1,174	1,362
Percentage Stating MH Is Located In This State	.	.	.	.	99%
Number Responding					1,361

FLORIDA

II. OPINIONS AND LIFE-STYLE OF MOBILE HOME OWNERS

	<u>1979</u>	<u>1981</u>	<u>1984</u>	<u>1987</u>	<u>1990</u>
Satisfaction With MH Living					
Very Satisfied	68%	74%	72%	66%	65%
Somewhat Satisfied	22%	20%	20%	25%	25%
Somewhat Dissatisfied	7%	4%	5%	7%	7%
Very Dissatisfied	3%	2%	3%	3%	3%
Total Percentage	100%	100%	100%	101%	100%
Number Responding	440	637	578	1,166	1,333
Other Housing Types Considered					
At Time Of MH Purchase	.	.	.	.
Site Built House					26%
Apartment/Townhouse					13%
Condominium					9%
Other					2%
None Others Considered					61%
Number Responding*					1,324
Reasons For Purchasing A MH					
Instead Of Another Housing Type	.	.	.	.
Less Expensive To Buy					77%
Instant Housing/Furnished					33%
Mobility/Can Relocate MH					10%
No Steps/All On One Level					21%
Purchased For A Vacation Home					3%
Purchased For A Retirement Home					39%
Quality Construction In A MH					18%
Could Own Land					29%
Low Monthly Park Rent					33%
Wanted To Own Our Home Instead Of Rent					51%
Convenient Location Available For A MH					31%
Liked The Floor Plan/Interior Design/Decor					42%
MH Included A Manufacturer's Warranty					20%
A Friend/Relative Recommended MH Living					18%
Other					14%
Number Responding*					1,326
MH Living ADVANTAGES That					
Cause Them To Remain In A MH	.	.	.	.
Easy To Keep Clean/Less Yard Work					61%
Less Expensive To Heat/Keep Cool					50%
Mobility/Can Relocate MH					9%
Taxes Are Lower					56%
Low Monthly Park Rent					22%
It's Private/Quiet					50%
Can Afford To Live In A MH					69%
Less Maintenance Required Inside/Outside A MH					57%
Like The Activities Available In A MH Park					33%
Like Having Neighbors Watch Out For Each Other					51%
Less Expensive To Maintain/Repair A MH					44%
Space Is Well Utilized/Compact/Cozy					48%
I Have The Pride Of Ownership - It's All Mine					54%
Other					6%
Number Responding*					1,342

*The percentage totals over 100% due to multiple responses.

FLORIDA

	<u>1979</u>	<u>1981</u>	<u>1984</u>	<u>1987</u>	<u>1990</u>
Major DISADVANTAGES OF MH Living	°	°	°	°	
Too Small/No Storage Space					30%
Fire/Storm Danger					50%
No Basement/Garage/Attic					44%
Depreciates Quickly					39%
Park Rental Fees Keep Increasing					38%
Neighbors Are Too Noisy/No Privacy					5%
Difficult To Sell Our MH					18%
Fear That MH Park Will Be Sold					12%
Poor Construction/Difficult To Repair					13%
Diffucult To Heat/Cool/Poorly Insulated					16%
Don't Like Our MH Park Manager/Owner					9%
Poor Maintenance By Park Manager/Owner					11%
Don't Like The Restrictions In Our MH Park					8%
Other Peoples' Opinions Of MH Owners					10%
Other					3%
No Major Disadvantages					12%
Number Responding*					1,335
Percentage Having Redecorated Their MH Within Last Three Years	°	°	°	°	60%
Number Responding					1,334
Percentage Having Added Landscaping Features Within Last Three Years	°	°	°	°	67%
Number Responding					1,341
MH Residence Usage	°	°	°	°	.
Own - Use As Primary Residence					94%
Own - Use As Vacation/Winter Home					2%
Own - Rent Out To Others					0%
Rent From Owners					4%
Total Percentage					100%
Number Responding					1,361
Percentage Belonging To A MH Owner's Association	°	27%	30%	36%	41%
Number Responding		636	557	1,164	1,336
Percentage Stating MH Has Been Moved In Last Three Years	°	°	°	°	3%
Number Responding					1,343
Months Residing In MH		°			
12 Months	95%		89%	92%	91%
6 - 11 Months	°		11%	8%	9%
1 - 5 Months	°		0%	0%	1%
Total Percentage			100%	100%	101%
Number Responding	460		571	1,158	1,332

*The percentage totals over 100% due to multiple responses.

FLORIDA

	<u>1979</u>	<u>1981</u>	<u>1984</u>	<u>1987</u>	<u>1990</u>
If In MH Less Than 12 Months, Percentage Submitting A "Mail Forward" To Post Office	•	•	•	•	75%
Number Responding					135
Years Ever Owned/Lived In A MH	•				
Less Than 5 Years		29%	24%	21%	17%
5 - 9 Years		34%	30%	32%	26%
10 - 19 Years		29%	38%	37%	42%
20 Years Or More		7%	8%	10%	15%
Total Percentage		99%	100%	100%	100%
Number Responding		633	581	1,156	1,351
Median Years In A MH		8	9	9	10
Additional Years Planning To Own/Live In Current MH	•				
Less Than 5 Years		17%	21%	19%	16%
5 Years Or More		10%	8%	13%	11%
Always		73%	72%	68%	72%
Total Percentage		100%	101%	100%	99%
Number Responding		584	564	1,085	1,279
Percentage Owning A...	•	•			
Motorcycle			8%	6%	6%
Boat			18%	14%	15%
Travel Trailer			8%	5%	6%
Snowmobile			1%	0%	0%
ATV/ATC			•	1%	2%
Powered Golf Cart			•	2%	5%
Number Responding			582	1,163	1,337
Percentage Actively Involved In Any Community Group	•	•	•	•	52%
Number Responding					1,338
Percentage Regularly Engaging In Activity Requiring Active Participation	•	•	•	•	50%
Number Responding					1,339
AARP Membership Status	•	•			
Currently A Member			52%	61%	65%
Used To Be An AARP Member			•	•	7%
Never Been An AARP Member			•	•	28%
Total Percentage					100%
Number Responding			576	1,166	1,315

FLORIDA

III. MOBILE HOME INFORMATION

	<u>1979</u>	<u>1981</u>	<u>1984</u>	<u>1987</u>	<u>1990</u>
Mobile Home Model Year					
Before 1977	96%	74%	66%	57%	49%
1977 - 1981	4%	25%	25%	22%	20%
1982 - 1986	0%	0%	9%	20%	21%
1987 - 1991	0%	0%	0%	1%	10%
Total Percentage	100%	99%	100%	100%	100%
Number Responding	452	620	573	1,130	1,314
Median Model Year	1972	1973	1973	1974	1977
Percentage Owning A Multi-Section MH	37%	40%	45%	43%	50%
Number Responding	425	621	579	1,142	1,314
Exterior Siding					
Aluminum	99%	98%	95%	90%	82%
Masonite	0%	1%	2%	4%	3%
Wood	1%	1%	2%	3%	4%
Vinyl	0%	0%	0%	0%	10%
Other	0%	0%	2%	4%	1%
Total Percentage	100%	100%	101%	101%	100%
Number Responding	454	836	578	1,157	1,331
Percentage Tied Down	0	0	0	0	76%
Number Responding					1,320
Percentage Stating Tie-Downs Have Been Inspected In Last Three Years	0	0	0	0	39%
Number Responding					975
Percentage With A Woodburning Stove Or Fireplace	0	3%	5%	6%	7%
Number Responding		639	578	1,170	1,346
How Woodburner Was Installed	0	0			
By The Manufacturer			47%	59%	72%
After MH Built - Installed It Themselves			40%	24%	16%
After MH Built - By A Professional			10%	7%	7%
Don't Know			3%	11%	6%
Total Percentage			100%	101%	101%
Number Responding			30	75	89
Percentage Stating Woodburner Inspected By Fire Department In The Last Three Years	0	0	0	0	23%
Number Responding					86
Percentage Stating MH Is Located Within 1,500 Feet Of Ocean/Bay/River	0	0	0	0	12%
Number Responding					1,333

FLORIDA

	<u>1979</u>	<u>1981</u>	<u>1984</u>	<u>1987</u>	<u>1990</u>
Acreage	.	.	.	.
Located In A MH Park					66%
Less Than 1 Acre					16%
1 - 4 Acres					11%
5 - 24 Acres					5%
25 Acres Or More					1%
Total Percentage					99%
Number Responding					1,350
Items Their MH Has	.	.	.		
Satellite Dish				4%	5%
Skirting				70%	79%
Garage/Shed				82%	74%
Air Conditioning				91%	92%
Electricity				.	99%
Smoke Detector				.	89%
Dead-Bolt Locks On Exterior Doors				.	41%
Earthquake Stabilizing Device				.	4%
Fire Alarm To Fire/Central Station				.	3%
Burglar Alarm To Police/Central Station				.	2%
None Of These				.	0%
Number Responding*				1,169	1,361
Approximate Value Of UNATTACHED Structures Such As A Shed/Garage/ Satellite Dish/Barn	.	.	.		
None				36%	36%
Less Than \$500				20%	15%
\$ 500 - \$1,999				22%	22%
\$2,000 - \$4,999				14%	15%
\$5,000 And Over				8%	12%
Total Percentage				100%	100%
Number Responding				1,005	1,205
Mobile Home Location					
Park - Don't Own Land	52%	53%	54%	47%	43%
Park/Subdivision - Own Land	8%	17%	15%	16%	19%
Condominium/Co-Op Park	.	2%	1%	4%	4%
Owner's Private Property	.	22%	24%	26%	26%
Someone Else's Property	.	6%	5%	7%	8%
Total Percentage		100%	99%	100%	100%
Number Responding	449	637	581	1,162	1,359
Age And Park	.				
Less Than 50 AND In Park		11%	15%	12%	10%
50 Plus AND In Park		60%	56%	55%	56%
Less Than 50 AND NOT In Park		13%	12%	15%	14%
50 Plus AND NOT In Park		16%	17%	18%	20%
Total Percentage		100%	100%	100%	100%
Number Responding		637	581	1,162	1,359

*The percentage totals over 100% due to multiple responses.

FLORIDA

	<u>1979</u>	<u>1981</u>	<u>1984</u>	<u>1987</u>	<u>1990</u>
Current Monthly PARK Rent	°				
Less Than \$100		54%	18%	11%	5%
\$100 - \$149		40%	42%	33%	20%
\$150 - \$199		6%	33%	32%	34%
\$200 And Over		1%	7%	24%	41%
Total Percentage		101%	100%	100%	100%
Number Responding		352	304	519	553
Median Park Rent		\$95	\$135	\$157	\$178
Monthly Park Rent One Year Ago	°	°	°	°	
Less Than \$100					7%
\$100 - \$149					26%
\$150 - \$199					34%
\$200 And Over					34%
Total Percentage					101%
Number Responding					525
Median Park Rent One Year Ago					\$169
Monthly Park Rent Two Years Ago	°	°	°	°	
Less Than \$100					10%
\$100 - \$149					31%
\$150 - \$199					32%
\$200 And Over					27%
Total Percentage					100%
Number Responding					486
Median Park Rent Two Years Ago					\$158
Number Of Spaces In MH Park/ Subdivision/Condo/Co-op MH Park	°	°			
Less Than 50 Spaces			6%	8%	8%
50 - 99 Spaces			10%	11%	10%
100 - 199 Spaces			17%	20%	19%
200 - 299 Spaces			17%	15%	15%
300 Spaces Or More			50%	45%	48%
Total Percentage			100%	99%	100%
Number Responding			383	742	858
Percentage Stating Park Has A Park Newsletter	°	°	°	°	61%
Number Responding					877

FLORIDA

IV. PURCHASE AND FINANCE INFORMATION

	<u>1979</u>	<u>1981</u>	<u>1984</u>	<u>1987</u>	<u>1990</u>
Year MH Was Purchased					
Before 1977	92%	57%	41%	30%	22%
1977 - 1981	8%	43%	42%	29%	24%
1982 - 1986	0%	0%	17%	38%	33%
1987 - 1990	0%	0%	0%	2%	21%
Total Percentage	100%	100%	100%	99%	100%
Number Responding	454	610	580	1,160	1,302
Median Year MH Purchased	1972	1975	1978	1980	1982
Mobile Home Purchase Source	°				
New From Dealer		39%	30%	31%	31%
New From MH Park		20%	19%	16%	15%
New From MH Broker		°	5%	4%	2%
Used From Dealer		4%	4%	5%	5%
Used From Private Party		30%	32%	32%	33%
Used From MH Park		2%	4%	5%	5%
Used From Real Estate Agent		3%	4%	4%	7%
Used From MH Broker		1%	2%	3%	2%
Total Percentage		99%	100%	100%	100%
Number Responding		616	574	1,118	1,322
Percentage Stating Their Dealership/Broker OFFERED...	°	°	°		
MH Insurance				47%	40%
MH Financing				58%	52%
Credit Life On MH Loan				15%	17%
Extended Service Contract				5%	9%
None Of These Items				31%	38%
Number Responding*				472	523
Percentage ARRANGING/PURCHASING Services Through Their Dealership/Broker	°	°	°		
MH Insurance				35%	31%
MH Financing				39%	42%
Credit Life On MH Loan				8%	9%
Extended Service Contract				2%	4%
None Of These Items				49%	48%
Number Responding*				472	523

*The percentage totals over 100% due to multiple responses.

FLORIDA

	<u>1979</u>	<u>1981</u>	<u>1984</u>	<u>1987</u>	<u>1990</u>
Purchase Price					
Less Than \$ 5,000	16%	13%	11%	10%	5%
\$ 5,000 - \$ 9,999	42%	30%	27%	20%	14%
\$10,000 - \$14,999	23%	21%	20%	20%	17%
\$15,000 - \$19,999	12%	12%	13%	15%	13%
\$20,000 - \$29,999	6%	14%	18%	19%	21%
\$30,000 - \$39,999	1%	9%	9%	10%	15%
\$40,000 And Over	0%	2%	3%	6%	14%
Total Percentage	100%	101%	101%	100%	99%
Number Responding	440	520	478	1,059	1,220
Median Purchase Price	\$8,500	\$11,200	\$12,650	\$15,000	\$20,000
Market Value					
Less Than \$ 5,000	18%	11%	10%	12%	10%
\$ 5,000 - \$ 9,999	22%	16%	15%	15%	14%
\$10,000 - \$14,999	16%	14%	14%	15%	13%
\$15,000 - \$19,999	16%	12%	10%	12%	10%
\$20,000 - \$29,999	20%	21%	26%	20%	19%
\$30,000 - \$39,999	6%	16%	14%	14%	14%
\$40,000 And Over	2%	10%	10%	13%	19%
Total Percentage	100%	100%	99%	101%	99%
Number Responding	406	583	414	1,017	1,158
Median Market Value	\$12,000	\$16,000	\$20,000	\$18,000	\$20,000
Percentage Currently Financing MH	•	20%	22%	23%	26%
Number Responding		636	572	1,131	1,332
Percentage Financing At Time Of MH Purchase	45%	39%	42%	41%	44%
Number Responding	456	617	580	1,116	1,315

FLORIDA

V. AUTO AND SITE BUILT HOUSE INFORMATION

	<u>1979</u>	<u>1981</u>	<u>1984</u>	<u>1987</u>	<u>1990</u>
Percentage Owning A...	°	°			
Station Wagon/Mini Van			°	°	14%
Sport Utility Vehicle			°	°	2%
Pickup/Van/Other Utility			°	°	25%
Two Door Passenger Car			°	°	29%
Four Door Passenger Car			°	°	56%
Motor Home			4%	5%	6%
Number Responding*			579	1,163	1,337
Annual Mileage Of Primary Vehicle					
Less Than 6,001 Miles	26%	33%	32%	36%	32%
6,001 - 9,000 Miles	12%	18%	19%	17%	17%
9,001 - 12,000 Miles	35%	28%	31%	26%	27%
Over 12,000 Miles	27%	22%	18%	20%	24%
Total Percentage	100%	101%	100%	99%	100%
Number Responding	389	527	474	996	1,197
Median Annual Mileage	10,000	9,000	9,000	8,000	10,000
Years With Auto Company	°				
1 - 3 Years		27%	29%	34%	25%
4 - 6 Years		18%	18%	15%	21%
7 - 9 Years		10%	8%	10%	9%
10 - 19 Years		22%	24%	20%	22%
20 Years And Over		23%	21%	21%	22%
Total Percentage		100%	100%	100%	99%
Number Responding		611	547	1,061	1,254
Median Years With Auto Company		8	7	7	8
Auto Insurance Company					
Allstate	22%	20%	21%	23%	25%
State Farm	23%	24%	23%	20%	24%
Hartford	1%	1%	2%	10%	5%
Colonial Penn	9%	10%	6%	5%	4%
GEICO	3%	3%	5%	4%	4%
Nationwide	5%	5%	4%	4%	4%
Travelers	3%	3%	3%	3%	4%
American Federation	0%	0%	0%	3%	3%
Aetna	2%	2%	1%	2%	2%
Auto-Owners	2%	2%	1%	3%	2%
Foremost	0%	1%	4%	2%	2%
Progressive	0%	1%	1%	1%	2%
Prudential	0%	1%	1%	1%	2%
Other	30%	27%	28%	19%	18%
Total Percentage	100%	100%	100%	100%	101%
Number Responding	408	561	492	1,001	1,177
Percentage Owning A Site					
Built House	°	°	°	°	4%
Number Responding					1,362

*The percentage totals over 100% due to multiple responses.

WILLIAM R. BARKER
ATTORNEY AT LAW
20 NORTH EOLA DRIVE
ORLANDO, FLORIDA 32801-1695

(407) 422-3223

WILLIAM R. BARKER

November 8, 1993

Congressman Jim Bacchus
432 Cannon House Office Building
Washington, D.C. 20515

Dear Congressman Baccus:

I am in receipt of you letter of October 13, 1993 regarding my experiences with casualty insurance companies following natural disasters such as Hurrican Andrew. Luckily, Orlando was not seriously affected by that storm and we did not make a claim against our insurance at that time. Earlier that year the Orlando area was hit by a severe hail storm, with many homes needing repairs. Our coverage with USAA was excellent. They covered the loss of our roof without hesitation. My family was very pleased.

Although we were spared this time, I shudder to think that we would be without insurance in the future because of receiving payments on a loss for which we had been paying premiums over the years. It does not seem right that an individual should be dropped from coverage or a carrier should withdraw from a state it had previously covered because a loss is claimed. Disasters strike anyone, at anytime. The purpose of insurance is to allow protection from loss when disasters do strike. If the insurance industry cannot protect its policy holders within its own strcuture then it seems appropriate that the federal government step in to provide relief to those who will be hurt by inadequate planning.

I hope that this is useful in your research.

Very truly yours,



William R. Barker

WRB:db

November 9, 1993

The Honorable Jim Bacchus
U. S. House of Representatives
432 Cannon House Office Building
Washington, D.C. 20515

Dear Congressman Bacchus:

Thank you for your recent letter soliciting comments regarding the availability and affordability of property and casualty insurance. On behalf of the Florida Association of REALTORS, I applaud your efforts as a co-sponsor of the Natural Disaster Protection Act of 1993.

As you know, a viable insurance market is critical to the real estate industry. Accordingly, it was imperative that legislative leaders address this crisis during Special Session "C" of the Florida Legislature. At this time, it appears a compromise proposal has been reached to prevent mass cancellations and non-renewals upon expiration of the moratorium.

The proposal creates the Florida Hurricane Catastrophe Fund to be administered by the State Board of Administration and imposes a cap on the number of cancellations by insurance companies during any one year. The proposal also states that should a federal or multistate catastrophe fund be created, the Board is directed to make recommendations to the Legislature for coordination with the federal or multistate program, for termination of the fund, or appropriate action. Accordingly, the Florida Association of REALTORS will continue to closely monitor efforts at the federal level as well as state action.

This recent action by the Florida Legislature as well as your commitment at the federal level indicates a positive step towards solving this crisis. Again, your concern and dedication to the people of this state are appreciated. If you would like additional information or if the Florida Association of REALTORS can be of assistance, please contact me.

Sincerely,



Howard E. Adams
Vice President of Governmental Affairs



REALTOR®

FLORIDA ASSOCIATION OF REALTORS®

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Honorable Representative Jim Bacchus
House of Representatives
432 Cannon Bldg.
Washington, D.C. 20515-0915

Nov. 9, 1993

Dear Congressman Bacchus:

I had Banker's Insurance policy on my house for 14 years. I received a notice for renewal that stated they would eliminate the wind storm coverage on my policy. Needless to say, no resident in Florida would consider this deletion with the Northeasters and hurricane threats. I spent two weeks calling various insurance agencies, including one carrying my flood insurance, the answer was the same. Not if you live on the beach side. Evidently they had an insurance pool for persons with homes directly on the beach or a short distance back from it but it would not be applicalbe to my area which is about 2 blocks from the ocean.

Finally I was directed to call Buchanan Insurance in Cocoa since they were taking a few new policies with Kemper. After one month of worry I finally did get the coverage I needed. The price was about the same as my previous policy so I can't complain.

The insurance companies that I talked with along the way stated they would not even consider an application for anyone having 2 claims or more on the previous policies.

What bothers me the most if that Bankers was happy to receive over \$ 700.00 a year in premiums for 14 years but when the going got rough they deserted their faithful clients. They want all the gravy and none of the risk.

Hope this gives you some insight into the problems in this area. Good luck on you new legislation.

Sincerely,

Joline Berg



RONALD R. McCALL, II

1120 20TH PLACE • VERO BEACH, FL 32960 • (407) 562-4119 • FAX (407) 562-1324

November 11, 1993

The Honorable Jim Bacchus
432 Cannon House Office Building
Washington, D.C. 20515
Attention: Tricia Haisten

RE: Insurance Crisis

Dear Tricia:

I asked several local agencies to respond to your letters of 10-14-93 and 10-18-93. I received one response in addition to my brief statement. Bob Grice of State Farm Insurance wrote an outstanding letter which should be entered into record for review.

I appreciate your work on the Natural Disaster Protection Act of 1993. I would like to encourage premium surcharge rather than tax dollars to fund this program. It would be far more cost effective for government and tax payer.

Insurance premiums for property in Florida have been artificially low due to the competition. Catastrophic claims such as Andrew demonstrate our weaknesses when it comes to paying many claims at a given time. Fortunately we are blessed only to have restrictions in coastal areas, with the remainder of our territory open for new business. Farm Bureau has proven fair pricing and conservative approaches to insuring risks will allow for greater availability to the consumer.

Good luck as you continue your work.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "Ron", written in a cursive style.

Ronald R. McCall, II



BOB GRICE INSURANCE AGENCY, INC.

Auto - Life - Health - Home and Business

October 26, 1993

2601 20th Street, Vero Beach, Florida 32960

Phone: (407) 567-1106

Mr. Ronald McCall
669 Lake Drive
Vero Beach, Florida 32963

Dear Ron

Thank you for asking for my input regarding the availability of property insurance and the long range economic impact to the community and the insurance agent.

As you know, I have been a successful State Farm agent in Vero Beach for the last twenty-five years. Our agency currently insures over 6,000 homes and businesses that will be affected by the changes in the industry following the losses paid for hurricane Andrew. Additional requests for property insurance by our existing policyholders must be placed in the Florida JUA, if they are eligible. I do not have any markets for new applicants requesting property insurance. Many of our policyholders are commercial clients. We have no available markets for property insurance for our existing commercial clients or new applicants.

Basically, we are taking care of our existing policyholders and remain thankful that State Farm has not elected to non-renew existing policyholders. The insurance business has never been more difficult. We are constantly explaining why we are unable to write homeowners and business insurance to the public. Many otherwise desirable risks are ending up in the JUA plan.

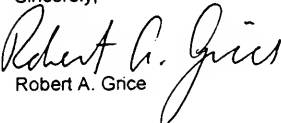
Our agency is growing smaller. There is a constant changing of ownership of homes and businesses. And, as we are unable to write new business, we are unable to insure the new owners to replace the ones we are losing. Eventually, the income stream of the agency will be reduced and it will be necessary to scale back on our overhead, which includes reducing the size of our staff.

Of greater concern is the need for property insurance and the economic survival of our free enterprise system. Everyone is affected by the absence of a viable competitive insurance market. Banks do not loan money without evidence of insurance, citizens cannot purchase homes or businesses without evidence of insurance, realtors cannot sell property and insurance agents cannot provide insurance without a market. Eventually, the entire economy will decline when insurance is not available.

All of this points to the need for government sponsored legislation to establish a Natural Disaster Protection Act to deal with all types of natural disasters. The fund to cover the disasters should come from the industry through premium surcharges rather than tax dollars.

Based upon everything I have heard, the insurance situation in Florida and all of the United States, will not improve until such time as National Disaster Protection Fund is established.

Sincerely,


Robert A. Grice



3 9999 05981 850 8

Congressman Jim Bacchus
432 Cannon House Office Building
Washington, D.C. 20515

November 18, 1993

Dear Congressman Bacchus:

I appreciate your correspondence in reference to the insurance crisis in the State of Florida.

I do have a personal experience to share.

The insurance crisis after Hurricane Andrew is very real in Florida, but it seems insurance companies are continually looking for loopholes whenever a crisis arises.

Case in point: On the West Coast of Florida, mainly Pinellas, Pasco and Hillsborough Counties the major crisis before Hurricane Andrew was sinkholes.

Insurance companies tried to stop insuring homes in these areas, due to the risk. Its amazing since Andrew we have not heard a word about sinkholes.

As you realize I am in the Mortgage Business in Clearwater and we were monitoring the events that were taking place in Dunedin, Florida which suddenly had over 200 claims for sinkholes.

Little did I think in July of 1991 my home in Palm Harbor, Florida would be found to have a sinkhole and the constant headaches would start.

After notifying Allstate Insurance of a problem, with cracking of the home, an engineering company tested the property and declared it a sinkhole in July of 91.

Allstate did not want to fix the problem due to surrounding circumstances and wanted to settle the claim, based on our replacement cost coverage. This is where the nightmares started.

Allstate sent one of their contractors to our home to perform the necessary figures for replacement cost of the home.

I made it a very important point to be there when the contractor arrived, and within 15 minutes he was gone, without taking a measurement or requesting any other information that would be needed to calculate the correct cost for replacement. Being in the real estate field I immediately realized a major problem was about to begin. After all we are speaking of a home with over 3600 square feet.

Several months later we were contacted by Allstate for a meeting at their claims office and upon entering we were faced with an Allstate Attorney and a Supervisor of Claims and promptly handed their contractors report showing a figure of \$ 141,000.00 and being told that was all they would pay and the home was our responsibility.

cont'd.

Page 2.

We in turn advised Allstate that the process was a sham, with negligence on the part of the contractor and Allstate for employing such a company, and promptly advised them that we would see them in court, as I knew their estimate was grossly low ball.

As we prepared to leave their attorney stopped us, stating a new estimate would be performed.

They chose a new contractor to do the estimate and we also hired our own contractor to do the same.

It is now December of 91 and they have the estimate and we bought ours. Their's is approximately \$ 165,000.00 and ours \$ 177,000.00, we split the difference and settled on approximately \$ 171,500.00.

We were given a proof of claim loss to sign that was almost blank (which we did not immediately sign until we completed the missing information).

Our policy face coverage was only \$ 125,000.00 since the insurance company was negligent in raising to keep with production costs, which we can prove.

The settlement negotiated was they paid off mortgages immediately and would only pay the face value (125k) until we replaced the home. We explained replacement was meant for fire or hurricane where a home could be replaced on the same property, we couldn't rebuild on the property, so land shouldn't enter in. They originally agreed with this concept.

We were going to buy another home and completely gut and rebuild so we could get the \$ 47,000.00 they wouldn't give us that we were due. Kindly remember, we still had to sell the property with the sinkhole.

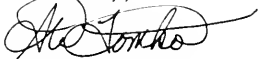
The insurance company now has changed the original agreement three (3) different times, with the latest being for us to get the \$ 47,000.00 they are holding land value must be subtracted from the purchase, in other words I must spend \$ 171,500.00 plus land. This is not right or fair, and we now have only until the middle of March 94 or we can lose the \$ 47,000.00.

Allstate has dealt out of good faith from day one, starting with the low ball estimate and I now can see why consumers are hurt and give up.

I hope this helps correct the flaws in the industry, and would be very happy to testify and provide documentation of all of the above to help correct this industry and help the consumer.

Thank you for this opportunity in this very important issue.

Sincerely,



Steve Tomko
P.O. Box 8506
Clearwater, Fl. 34618-8506

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